Public Utilities

FORTNIGHTLY

November 20, 1947

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PUBLISHERS

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GRINNELL

WHENEVER **PIPING** IS INVOLVED

Public Utilities Fortnightly

VOLUME XL *November 20, 1947* NUMBER 11

Contents of previous issues of PUBLIC UTILITIES FORTNIGHTLY *can be found by consulting the "Industrial Arts Index" in your library.*

¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

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Pages with the Editors

SOME years ago a skit was put on by newspapermen with the purpose of ribbing prominent public figures. One of the features—designed to tease a genial guest, FBI Chief Edgar Hoover—bore the somewhat provocative title, "Crime Does So Pay!" The intended moral, if any, was not so shocking as the title would imply. It was simply to the effect that crime may not pay the criminal, but it pays other people—policemen, district attorneys, judges, criminal lawyers, penal and parole authorities, prison help, and so forth. Otherwise, crime could not operate as a going concern in modern society.

REGULATION is certainly not to be compared with criminal prosecution in any moral sense. But there does seem to exist some confusion in some minds as to just what regulation is supposed to accomplish. When we hear people talking about the "failure of regulation" (meaning, of course, public utility regulation) it tempts us to ask just what these people expect regulation to accomplish.

WE even asked that very question sometime ago and got a very honest answer—one which might put utility regulation in the category of criminal prosecution. It was obvious that the party thought of regulation as a form of systematic prosecution of utility enterprise, culminating logically in its extinction, so that the "inevitable" transition of government operation would take over, virtually by default.

BUT most of us who have thought about public utility regulation do not have any such ultimate objective in mind. There may be some few politicians who think of regulation as an end in itself—

CHARLES L. CAMPBELL

to provide jobs and go through formal motions of legality, such as a notary public affixing his seal to affidavits. There may be some others who think of regulation as a one-way street, designed entirely for the benefit of utility consumers, and letting the utility investors look out for themselves.

YET the basic theory of regulation is one of equity—equity for the consumers and equity for the investors. Of late years we have even heard suggestions that it might be expanded to include equity for utility employees, although, so far, we have other regulatory organizations to administer that special province.

BUT the broader view of regulation is that of something vital—an institution of thoughtful research and resolute action quite different from either dead formality or one-sided prosecution. Unless this concept prevails, it is difficult to see,

over the long run, how we expect our American utility industries to continue to grow and expand, so as to maintain their reputation to date for rendering the best service in the world, to the best people in the world, at reasonable rates to the consumer, and a fair return to the investor.

IN short, regulation should prevail, not for itself alone, nor for any one group or combination of groups. *Equal and dynamic regulation* is, in the field of public utility operation, the counterpart of "equal justice under the law" in the general field of jurisprudence.

ONE of the primary attributes of equal and dynamic regulation is that it shall be clearly and fairly defined by law. Twenty years ago critics of regulation were complaining about gaps and "no man's land" existing between Federal and state jurisdiction. Congress, in response to these criticisms, passed legislation expanding Federal commission activities. State legislatures, likewise, overhauled state laws with the same end in view.

TODAY we seem to be troubled, not with gaps or "no man's land," but with overlapping and duplication, or at least complaints about the same. It is understandable, of course, that a utility which is unequivocably operating in both interstate and intrastate commerce must expect to serve two regulatory masters. But other operating circumstances are not so simple or clear cut.

THE opening article in this issue deals with such a situation. CHARLES L. CAMPBELL, author of this article on jurisdictional problems arising under the Federal Power Act, was born in St. John, New Brunswick, in 1877, and educated in Canadian public schools. The beginning of his public service career was in the accounting department of the Canadian Pacific Railway in 1894. Shortly after the turn of the century, MR. CAMPBELL turned his attention to street railway operations in Connecticut, becoming auditor of the Consolidated Railway Company of New Haven until 1911. He then served as treasurer of the United Electric Light & Water Company of Waterbury until 1917 when he joined his present organization, the Connecticut Light & Power Company, first as treasurer and secretary and then as vice president and treasurer. He is now president of that company. He also has been active in civic, state, and industrial associations.

JAMES H. COLLINS

* * * *

PUBLIC ownership, as well as public utility regulation, has a tendency to spill over its boundaries, unless periodically checked and examined. An interesting study of the experiment in community development at Norris, Tennessee, by the Tennessee Valley Authority is the subject of the article (beginning page 686) by LARSTON D. FARRAR, professional writer of Washington, D. C.

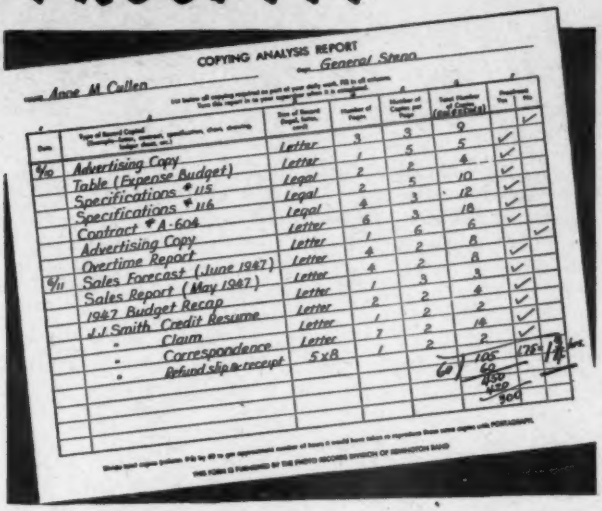
* * * *

JAMES H. COLLINS, whose article on a broader approach to industrial accidents begins on page 693, is a free-lance writer on business and economic subjects, now resident in Hollywood, California. MR. COLLINS will be recalled for his many years as editor of the monthly magazine of the Los Angeles Chamber of Commerce, *Southern California Business.*

THE next number of this magazine will be out December 4th.

The Editors

Here's PROOF . . .



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In Exchange Calls and Gossip

In Financial News

In What Others Think

In The March of Events

In The Latest Utility Rulings

PREPRINTS FROM PUBLIC UTILITIES REPORTS
Various regulatory rulings by courts and commissions reported in full text, pages 97–128, from 70 PUR NS

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

RAYMOND MOLEY
Columnist, The Chicago Journal of Commerce.

"The nation needs fact finders, but should not expect soothsayers."

WARREN MCCANDLESS
President, Cox-McCandless Company.

"Now is no time for any man in any business to remain unaware of the very real use he can make of intelligently applied publicity."

JAMES D. MOONEY
President, Willys-Overland Motors.

"Government must reëstablish confidence in our paper currency, and do it by acts which indicate the existence of a sound, constructive fiscal policy."

EDITORIAL STATEMENT
The Wall Street Journal.

"It does indeed appear that competition in industry is to be more 'rugged' than ever before and that the myth that identifies bigness with monopolism is finally exploded."

J. CAMERON THOMSON
President, Northwest Bancorporation.

"The problem today is not so much a matter of tax reduction, important as that is. The real urgency is for tax reforms. The whole question of government spending and debt management, as well as taxation, must be reconsidered in the light of their effect upon production, consumption, and employment."

C. M. WHITE
President, Republic Steel Corporation.

"I'm not a pessimist about the future but I do believe that it's going to require more skill, more effort, more time, more thought, to carry on successfully in the months to come than it ever has before. If we tighten our belts, lick each problem as it comes up, show a high degree of courage and initiative, we'll keep a green light ahead of us and the red light of Communism turned the other way."

HOWARD CHASE
Director of public relations, General Foods Corporation.

"The greatest asset of those who would destroy freemen and free institutions is the sense of human frustration which we, in our mad rush toward technological, but not human, progress have allowed to develop. The future —not only of a business system but perhaps of western humanitarian civilization—hangs upon the willingness of today's men of business to concentrate their brains and energies into an all-out attack on human frustration."

EDITORIAL STATEMENT
The (New York) Sun.

"One great political proposition remains: That the people of New York city, alone among the people of all large cities in the United States, are unable to pay what it costs to ride on a rapid transit system."

Excerpt from "Pulling Together," published by National Small Business Men's Association.

"We oppose usurpation of state rights and private property through creation of various national authorities, such as the TVA, MVA, and all such agencies as compete with private enterprise and remove assessable property from state tax rolls."

EDWARD T. KAVENY
Secretary, Wisconsin Public Service Commission.

"All the cheerful greetings of the executives, all the honeyed words of the publicity department, and all the high-powered promotional campaigns fail to accomplish as much good for an organization as the daily grist of courteous, tactful handling of the public by the personnel."

HENRY FORD II
President, Ford Motor Company.

"Hope without opportunity is a bag of nothing. It is in our own land of opportunity that man has been given the chance to do something about his dreams. 'Go to it,' America says to the individual. 'Dream your dreams, and work to make them come true. We will all benefit thereby.'"

B. M. MCKELWAY
Editor, The (Washington, D. C.) Evening Star.

"Curbs on the freedom to publish opinion, the freedom to publish the news, the freedom to criticize, to attack, to expose, if imposed on newspapers, would mean loss to the people—not merely to the newspapers—of a freedom which the people should be willing to preserve at all costs."

CHARLES EDISON
Former governor of New Jersey.

"We cannot go on leaving politics to the politicians while the scientists think up more deadly bombs, find new strains of plague bacteria, invent missiles that find their own targets, and so on. If civilization is to be flourishing in 2047 it must bring society and science close together . . . and soon."

EDITORIAL STATEMENT
The New York Times.

"Under the complex conditions of modern life all economic systems are inevitably, necessarily, and properly subject to 'restrictions.' The real test is whether the restrictions are such as to encourage or discourage healthy enterprise, increasing production, and the achievement of a high standard of living."

C. S. DUNCAN
Economist, Association of American Railroads.

"Private management everywhere, not only in transportation, must be awakened to the danger of our policy of drift today. We must have the support of others, our competitors, the users of transportation, the bankers, investors, and all good men and true who believe in the cause of free private enterprise."

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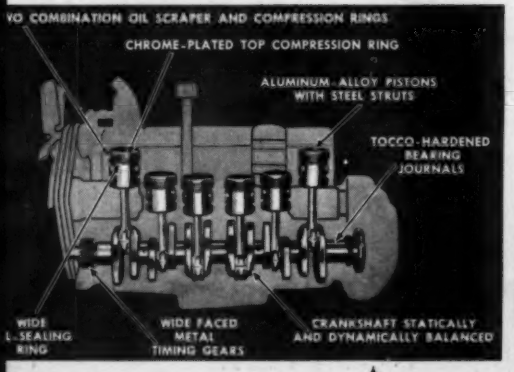
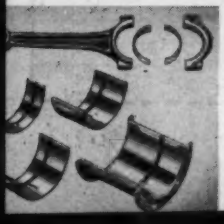
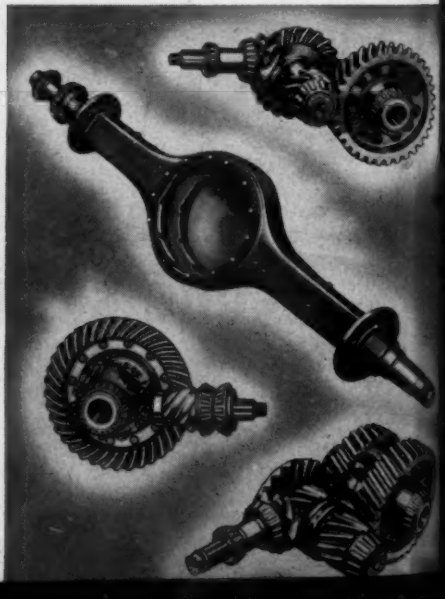




7-bearing crankshaft, with Tocco-hardened journals. Aluminum alloy pistons with four rings. Replaceable multiple-layer bearings.

Rugged, dependable rear axles—single-speed; single-speed, double-reduction, and 2-speed, double-reduction fit every hauling need.



YEVIDENCE

FE AND ECONOMY OF

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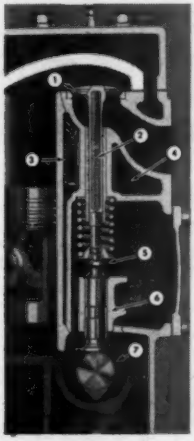
FROM radiator to rear axle, these heavy-duty trucks were especially engineered and built for *long, economical* service.

They're powered by two brilliant *truck* engines, of 282 and 331 cubic inch displacement. Horsepower-to-weight ratios reach a new high! These engines develop 225 and 270 pound-feet of torque respectively—and maintain high torque output over a wide speed range.

Engine cylinder walls, of chrome nickel molybdenum alloy cast iron, are *so hard* that wear is almost non-existent. Valves are made of silchrome, a special valve material of exceptional durability. For long life, exhaust valves are sodium-cooled; valves and valve seat inserts are stellite-faced.

Everywhere, unnecessary surplus weight is eliminated by improved design and advanced metallurgy. New and strictly *heavy-duty* clutches, and a remarkably efficient five-speed transmission—coupled with rear axles of new design—provide a highly efficient transmission of torque to the wheels.

If *your* transportation requirements fall within the 18,500 to 23,000-pound gross vehicle weight ranges (up to 40,000 pounds G.T.W.) we believe you'll find these "Heavyweights" your long-awaited answer to *lower-cost hauling* in their capacity ranges! See your Dodge dealer.



1 Stellite-faced exhaust valves and seat inserts. (All valves and valve seat inserts are of hard, durable silchrome.)

2 Sodium-cooled exhaust valves.

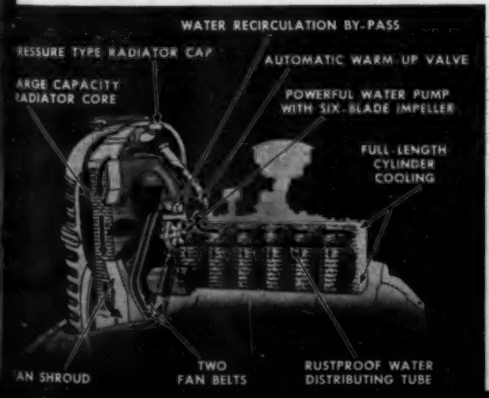
3 Rustproof water distributing tube for exhaust valve seat cooling.

4 Large water pockets surround valve stems for quick heat dissipation.

5 Self-locking adjusting screws facilitate tappet adjustments.

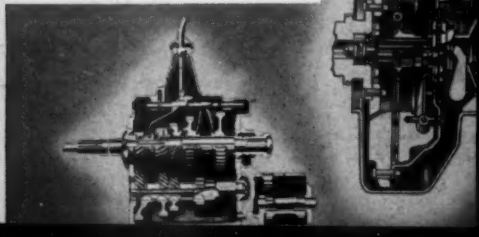
6 Tappets lubricated by pressure feed for long life.

7 High-test cast iron alloy camshaft supported by four large bearings.



This highly effective cooling system is an important reason for the greater economy, dependability, and longer life of these heavy-duty trucks.

Rugged 5-speed transmissions and heavy-duty clutches, with capacity well in excess of engine torque, insure long life, low-cost maintenance.



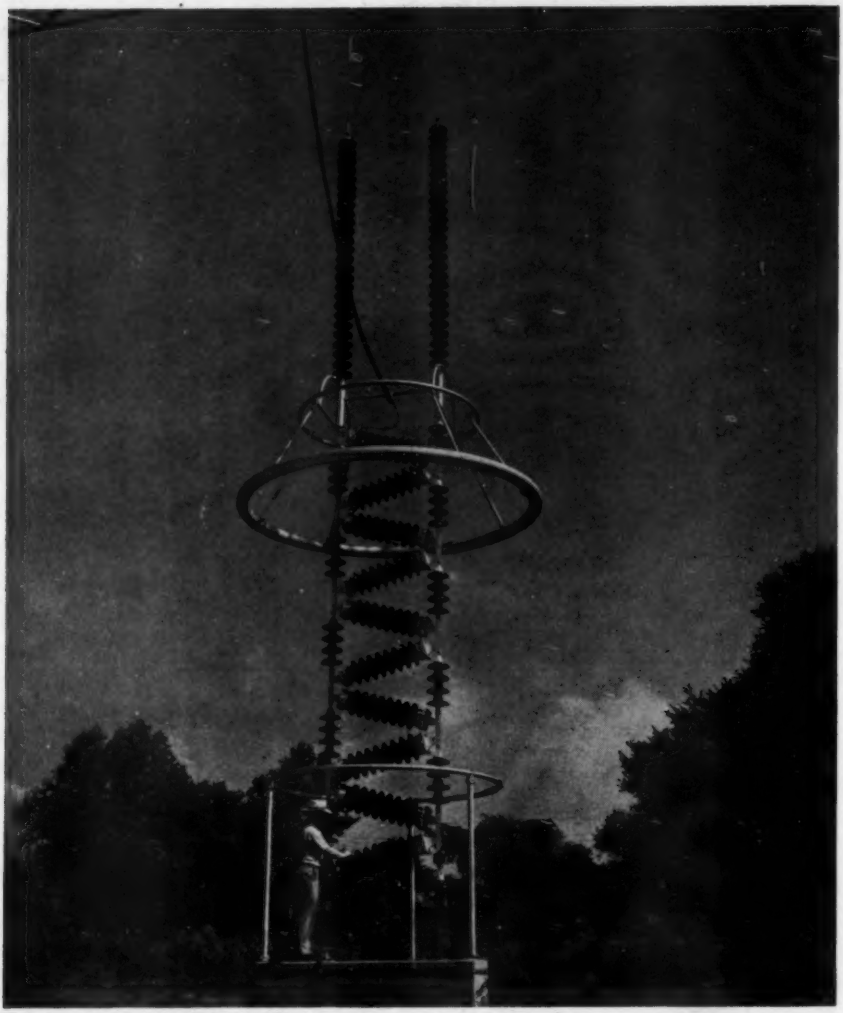
Utilities Almanack

November

20	Th	¶ *North Carolina Independent Telephone Association begins convention, Southern Pines, N. C., 1947.*
21	F	¶ *West Virginia Public Utilities Association begins meeting, Hot Springs, Va., 1947.*
22	Sa	¶ *American Water Works Association, Florida and Cuban Sections, ends joint meeting, St. Petersburg, Fla., 1947.*
23	S	¶ *Oklahoma Telephone Association will hold convention, Oklahoma City, Okla., Dec. 4, 5, 1947.*
24	M	¶ *American Gas Association, Home Service Committee, will hold meeting, Chicago, Ill., Jan. 21–24, 1948.*
25	Tu	¶ *Eighth International Heating Ventilation Exposition will be held, New York, N. Y., Feb. 2–6, 1948.*
26	W	¶ *New England Gas Association will hold annual meeting, Boston, Mass., Mar. 18, 19, 1948.*
27	Th	¶ *Southern Gas Association will hold annual convention, Galveston, Tex., Mar. 24–26, 1948.*
28	F	¶ *Mid-West Regional Gas Sales Conference will be held, Chicago, Ill., Mar. 29–31, 1948.*
29	Sa	¶ *American Gas Association, Natural Gas Department, will hold convention, Houston, Tex., Apr. 4, 5, 1948.*
30	S	¶ *Gas Appliance Manufacturers Association will hold annual meeting, Chicago, Ill., Apr. 5–7, 1948.*

December

1	M	¶ *American Society of Mechanical Engineers begins annual meeting, Atlantic City, N. J., 1947.*
2	Tu	¶ *American Gas Association, Industrial and Commercial Gas, will hold sales conference, Windsor, Canada, Apr. 7–9, 1948.*
3	W	¶ *Edison Electric Institute-American Gas Association will hold accounting conference, St. Louis, Mo., Apr. 12–14, 1948.*



Courtesy, American Gas & Electric Company

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A 500-kilovolt Westinghouse earthquake-proof lightning arrester located on the experimental transmission line at Brilliant, Ohio. The line, energized during tests, can carry up to 500,000 volts. This is a new departure in electrical transmission for America.

Public Utilities
FORTNIGHTLY

VOL. XL, No. 11 NOVEMBER 20, 1947

Amendments to the Federal Power Act

An analysis of a stubborn jurisdictional problem affecting the Federal Power Commission and an electric utility company operating in the state of Connecticut.

BY CHARLES L. CAMPBELL*
PRESIDENT, THE CONNECTICUT LIGHT & POWER COMPANY

THE next session of Congress will undoubtedly see a renewal on a more vigorous scale of the movement started during the past year to more clearly define the jurisdiction of the Federal Power Commission over public utilities and licensees, as those terms are used in the Federal Power Act. The bitterness of the controversy is, in my opinion, largely the responsibility of the Federal Power Commission. As president of The Connecticut Light & Power Company, which engaged in six expensive but finally successful years of litigation with the Federal Power Commission over its right to exercise jurisdiction over this company, I am somewhat familiar with the activities of that commission.

The Federal Power Act, originally adopted in 1920, consists of three parts. Part I in general provides for

* For personal note, see "Pages with the Editors."

the creation of the Federal Power Commission, the issuance of licenses for the improvement of navigation, the development of water power, and the regulation of licensed projects. The commission administers not only Part I of the act, but also Parts II and III. Part II in general provides for the regulation of electric companies engaged in interstate commerce. Part III relates to licensees under Part I and interstate public utilities under Part II and contains the procedural and administrative provisions of the act.

It should be remembered that Parts II and III of the act were added in 1935 because of the decision of the United States Supreme Court in 1927 in Rhode Island Public Utilities Commission *v.* Attleboro Steam & Electric Co. (273 US 83) commonly called the Attleboro Case, which held that sales of electric energy at wholesale in interstate commerce between public utilities located in different states were not subject to regulation by the states, and in the absence of Federal regulation such sales went unregulated. Parts II and III of the Federal Power Act were therefore passed so that Federal jurisdiction could be asserted over such interstate public utilities. The Federal Power Commission has used these Parts to assert its jurisdiction over intrastate public utilities as well.

This assertion of jurisdiction results in a duplication and overlapping of Federal and state regulation. Such duplication of regulation imposes a real hardship on any company. It means that the company is subject to two masters, the Federal Power Commission and the utilities commission of the state in which the company operates. This may mean two sets of accounts, two contrary orders on any subject, and similar expensive confusion which serves no useful purpose, as was well illustrated in the case of Jersey Central Power & Light Co. *v.* Federal Power Commission (1943) 319 US 61, 48 PUR NS 129, where the New Jersey Board of Public Utility Commissioners said the company could issue and sell certain securities and the Federal Power Commission said it could not.

In anticipation of the confusion engendered by the 1935 amendment to the Federal Power Act, and so that there would be no question that the regulation of Connecticut's public utilities commission over companies operating in Connecticut is full, complete, and effective, let me quote from § 1414c of the Public Acts of the State of Connecticut enacted in 1935:

> *Powers and Duties of the Public Utilities Commission*
>
> (a) The general purposes of this section are to assure to the state of Connecticut its full power to regulate its public service corporations, to increase the powers of the public utilities commission, and to promote local control of the public service corporations of this state, and it shall be so construed as to effectuate these purposes.
>
> (f) . . . No . . . official, board, or commission purporting to act under any governmental authority other than that of this state or of its divisions, municipal corporations, or courts, shall interfere with or attempt to interfere with or exercise authority or control over any gas, electric, or water company incorporated by this state and engaged in the business of supplying service within this state . . . without first having obtained the approval of the commission, except as the United States may properly regulate actual transactions in interstate commerce.

It is interesting to note that this act was passed by both houses of the legislature, the house at that time being Republican while the senate was controlled by the Democratic party, and

the act was approved by a Democratic governor, so it was clear that, so far as the state of Connecticut was concerned, there were no partisan politics entering into the matter at all.

In the case brought by the Federal Power Commission against my company, the commission's claim was based on what the company believed was an erroneous interpretation of the law, and, when it finally reached the United States Supreme Court, the court upheld the company's view of the law and remanded the case to the Federal Power Commission for further proceedings, and the commission subsequently dismissed the case. The company spent a substantial sum in establishing its rights and consumed a great deal of valuable time of its officers and staff on this case, and this was during the war when those efforts might have been better expended in other directions.

In the show-cause order issued against the company, the commission directed the company, among other things, to show cause "Why the commission should not institute appropriate proceedings against it, its officers or directors for such failure or refusal to comply with applicable orders, requirements, and requests of the commission." Also at the first day's proceedings in the case the counsel for the Federal Power Commission made the following statement as part of record:

> The commission's counsel gives notice further that they shall ask the commission to fix the amount of forfeiture to be paid by the respondent for each of its several failures to comply with orders of the commission, and we shall ask the commission to refer the record or part of the record to the Department of Justice for the collection of the forfeitures and the imposition of the penalties, by appropriate civil and criminal proceedings.

It is a fair question whether the purpose of the Federal Power Commission, in making this statement, was not to intimidate me so I would drop the proceedings and submit to its claim of jurisdiction.

It was at no time claimed in our case that there was any gap in regulation or that any transaction of any of the companies involved was not fully regulated by the public utilities commission of the state of Connecticut. This is merely one illustration. There are plenty of others, where the commission has assumed jurisdiction and interpreted the law, in my opinion, away beyond that intended by Congress. Part of this may well be due to the ambiguous or faulty language of the statute itself.

It appears to me, therefore, that the time has arrived to clearly define the limitations of the jurisdiction of the Federal Power Commission, and to clear up any ambiguities in the act, so the Federal Power Commission can

¶ "No *public utility company objects to regulation—the objection is to* DUPLICATE *regulation. It would appear obvious that intrastate utilities can best be regulated, both from an efficiency and economy standpoint, by a local commission, rather than by a Federal commission. The nearer the regulatory authorities are to the problems, the more likely they will be settled sensibly and to the best interests of all concerned."*

confine itself to the task for which Congress created it.

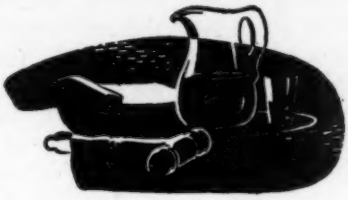
No public utility company objects to regulation—the objection is to *duplicate* regulation. It would appear obvious that intrastate utilities can best be regulated, both from an efficiency and economy standpoint, by a local commission, rather than by a Federal commission. The nearer the regulatory authorities are to the problems, the more likely they will be settled sensibly and to the best interests of all concerned.

Another example of the overreaching of the Federal Power Commission is found in its regulation of Part I of the act, dealing with licenses on navigable streams. The Federal Power Commission, not content with asserting jurisdiction over intrastate utilities, has recently tried to assume jurisdiction over some manufacturing companies which are not in the utility business and do not sell utility service but merely maintain some kind of facility on or near a so-called navigable river. For example: In June of 1946 the Federal Power Commission addressed letters to six small Connecticut manufacturing companies, stating in effect that at Windsor Locks, Connecticut, they were unlawfully operating hydroelectric plants without Federal authority and demanded that they take out licenses from the Federal Power Commission.

EACH of these companies leases or purchases water from the Windsor Locks Canal Company. Each of these companies is a small manufacturing concern of the family ownership type, some of which have been in business at their present location for more than one hundred years. Two of these companies are manufacturers of paper; one is a manufacturer of sweaters, underwear, and yarns; one is a manufacturer of chucks; and one is a manufacturer of casters and handling equipment. All of these companies use the water which they lease or purchase from the Canal Company for manufacturing processes and purposes. In addition, these companies use a portion of the water to turn mechanically certain machinery and also to generate a small amount of electric energy for lighting or power purposes in their plants. The amount of electricity generated is small and none of it is sold by any of these companies to anyone else. In fact, the total generating capacity of all of these companies from the water purchased is approximately 1,100 horsepower.

With a view, therefore, of correcting these situations, there were introduced into the House of Representatives in April of this year the so-called Miller bills, HR 2972 and HR 2973. Immediately there arose a hue and cry from the so-called liberal press columnists denouncing these bills. This denunciation usually took the form of irresponsible and hysterical ranting about the return of the power trust and the Insull era with watered stocks, bribed legislators, pyramiding of properties, and like reckless and corrupt abuses.

There was no factual basis for these denunciations. In most instances the columnists accepted, apparently without question, propaganda believed by many to have emanated from the Federal Power Commission. At the committee hearings on the bills the only people who appeared in opposition were



Expansion of Regulatory Jurisdiction

"THE manner in which the Federal Power Commission has expanded its regulatory jurisdiction and steadily encroached upon that of state commissions over the past decade may be compared to the proverbial camel of Aesop's fable who, when allowed to put his head in his master's tent, by degrees was able to move the rest of his body in and, in the process, to push his master completely out."

the Federal Power Commission and its staff. They took a lot of time showing what the Federal Power Commission had done and praising the work of that commission. Among other things, they apparently felt that they had a duty to protect the investor, notwithstanding the fact the Securities and Exchange Commission was created, among others, for that specific purpose, and the investor is furnished all the protection which is deemed necessary by the requirements of that commission. Nobody had attacked the Power Commission for the work it had done in the field to which it should confine itself—the objection was to its going far afield from the job it was created to do.

THE manner in which the Federal Power Commission has expanded its regulatory jurisdiction and steadily encroached upon that of state commissions over the past decade may be compared to the proverbial camel of Aesop's fable who, when allowed to put his head in his master's tent, by degrees was able to move the rest of his body in and, in the process, to push his master completely out. Now, before I am accused of being biased (which I am after my experience with the commission), the facts are that the Federal Power Commission itself admits this, and I quote from the record on the hearings held on the Miller bills:

> COMMISSIONER OLDS. I think it would be desirable for the Federal government to assure uniform accounting throughout all of the electric utility companies.
>
> MR. HESELTON (member of the committee). In other words, Mr. Olds, then you want the Federal government to control; to have some control over the distribution of electric energy in the United States irrespective of whether it is intrastate or interstate or whether or not it is obtained from steam generated by coal or from dams on a river?
>
> COMMISSIONER OLDS. I think that ultimately it would be wise for the Federal government to extend control over the accounts of all electric utilities.
>
> MR. HESELTON. I think we understand each other.

Those who appeared at the hearing in favor of the bills were not only representatives of utilities and manufacturers but included such persons as John E. Benton, advisory counsel, and Frederick G. Hamley, general solicitor, of the National Association of Railroad and Utilities Commissioners; John L. Collins, special counsel for the public utilities commission of the state of Connecticut; General Sanford H. Wadhams, chairman of the water commission of the state of Connecticut; Lester Hooker, chairman of the state corporation commission of Virginia; Herbert Ferguson, chief counsel, and George Steiumetz, engineer, of the public service commission of Wisconsin. In other words, it is fair to say that the support given these bills comes from persons other than public utility and manufacturing executives.

I SHOULD like to review what I conceive to be the purpose of these bills:

Briefly stated, the purpose of House Resolution 2972, as I see it, is to amend the Federal Power Act so as to make it plain that the Federal Power Commission will not have jurisdiction over local intrastate operating companies engaged solely in local distribution, whose facilities are located wholly within one state.

The bill, in addition, will exempt from the jurisdiction of the commission emergency exchanges of energy, exchanges at cost, and inconsequential exchanges between companies in different states, and allows companies to have interconnections with governmental agencies, and also provide that if a company ceases to be a public utility under the act it is no longer subject to commission jurisdiction.

It is not the purpose of the bill to exempt from the jurisdiction of the Federal Power Commission any company whose facilities cross state lines nor to recreate the "Attleboro gap," as contended by the commission.

It is not the purpose of the bill to exempt from the jurisdiction of the Federal Power Commission any company like the Narragansett Company in the Attleboro Case, which sells electric energy in interstate commerce, but the amendment does exempt companies such as the Jersey Central Power & Light Company.

It is not intended by the bill to grant general immunity to any company, as the commission contends.

The purpose of House Resolution 2973, as I see it, is to amend the Federal Power Act so as to clarify the licensing authority of the Federal Power Commission over projects in waters of the United States. The Federal Power Commission for licensing purposes has successfully claimed jurisdiction over practically every stream in the United States and is forcing utilities, and manufacturing concerns as well, to take out licenses for the continued maintenance of their projects, even though such projects have been in operation for many, many years. The commission has completely overridden any state jurisdiction in this respect. Representatives of the commission who were asked at the hearings on the bill to name rivers in the United States over which the commission did not claim jurisdiction were unable or unwilling to do so. HR 2973 is offered to correct this situation and it is believed that in so correcting it the true intent of Congress is asserted and the public interest served.

To my mind, it is clear that the Federal Power Act should be amended in the manner proposed by these two bills. In connection with our own case, the Supreme Court of the United States made a very interesting observation and I quote:

> Every facility from generator to the appliance for consumption may thus be called one for transmitting such interstate power. By this test the cord from a light plug to a toaster on the breakfast table is a facility for transmission of interstate energy if any part of the load is generated without the state.

The question might well be asked, therefore, if the Federal Power Commission intends to assert jurisdiction over the housewife operating the toaster on the breakfast table. What is to stop it?

The representatives of the Federal Power Commission claimed that the Federal Power Act, which was last amended twelve years ago, is not susceptible of amendment. That is ridiculous. We have learned, I hope, something in these twelve years. It is quite evident that the present act is not free from ambiguities; otherwise, there would have been no lawsuits to construe it, and particularly there would have been no dissenting opinions in the Supreme Court; and there were dissenting opinions in almost every case involving the interpretation of this act. Surely we are entitled to have acts of Congress amended when they are ambiguous, and improved where improvements are called for; and we ought to be allowed to recommend and urge such changes without being accused of turning the clock back, as well as being subjected to other vicious and uncalled-for attacks on our integrity.

I believe that, if these bills are adopted, state utility commissions, the manufacturers, and utility companies will know where they stand, and the utilities will not find themselves confronted with conflicting orders; while, on the other hand, the Federal Power Commission will be able to attend properly to the tasks which are clearly its and not spend a lot of time and taxpayers' money in chasing will-o'-the-wisps in the form of strained interpretations of the law, such as was done in the case of The Connecticut Light & Power Company.

"For nearly four decades our sense of values has been warped by the stupendous outlay of money for speculation and pump priming, with the consequent depreciation of consumer purchasing power. The impression has been created that this vast outpouring of money is evidence of great wealth and the key to abundance, ease, and security, and that the long-looked-for formula of getting something for nothing has at last been found. Out of the confusion there developed a national theory that we need not worry about the debt since we owe it to one another. Such a fantastic and false philosophy must be abandoned or we face disaster. It is imperative that we live within our means and balance the budget through a sharp reduction in nonessential expenditures, and thereby provide for a reduction in taxes."

—Excerpt *from "New England Letter," published by The First National Bank of Boston.*

Norris, Tennessee: An Abandoned Experiment

An appraisal of the TVA's venture in community planning and operation on behalf of its employees.

By LARSTON D. FARRAR*

THE announcement by the Tennessee Valley Authority that it will sell the town of Norris, Tennessee, at a public auction to the highest bidder, or bidders, is a result of what has happened to American political thinking in the past decade, but it also may be a harbinger of things to come.

If TVA will "liquidate" Norris town, it's possible also that it will "liquidate" its fertilizer and chemical plants eventually. Possibly, but not probably, the end of TVA control over Norris may be the first move towards deflating TVA itself. Time alone will tell.

What TVA's announcement means is that the authority is getting out of the real estate business to a slight extent. It is pulling in for a little more comfort's sake. That the authority is divesting itself of a town because it feels that it must, is accepted by most practical observers of the national scene, statement of some officials to the contrary notwithstanding. The practice of government agencies of expanding wherever and whenever possible is now so ingrained that it is generally assumed that they never deflate except by necessity.

TVA, of course, never was and never will be simply a multipurpose public project engaged, among other things, in rendering a wholesale public utility supply service in a certain defined territory. The "valley," specifically the Tennessee valley, is a lot larger now, by TVA definitions, than a lot of southerners ever conceived it to be in days of long ago. TVA always has been and always will be, as long as it is

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in existence, a quasi political movement and representative of a certain type of political thinking. The men who work for it may or may not realize this in so many words. But experienced analysts generally take that view, whether they approve or disapprove.

Its most ardent proponents have dubbed it "Socialism in action." Norman Thomas, the perennial candidate for President on the Socialist ticket, cheerfully admits this. Communists in America always have, and unless orders to the contrary come from Moscow, always will support TVA, for an extension of the TVA idea to cover the whole nation would go a long way toward collectivizing the nation economically. TVA critics have called TVA everything from "subsidized competition" to "Communism in action," but until lately they have declaimed in vain against many of its accustomed practices.

The agency, intrinsically, was a result of a political movement and it became the personification of much of the New Deal philosophy. Its advocates included those like the late Harry Hopkins, who did not mind thinking of an America regimented by a thoroughly planned economy. Then there is Representative John E. Rankin (Democrat, Mississippi), who hates Communism as an ideology while he endeavors to put over more and more spending projects that would siphon additional Federal money into public projects.

The technicians who planned the town of Norris may, or may not, have realized it, but they were not employed merely to build a residential town for use during the construction of a dam. The project was intended to be a part of the "wave of the future." Doubtless, some of the planners who were pulling the strings in Washington hoped with some confidence that Norris would not be the only village of its kind, but that it would be the first of numerous future government-owned, government - planned, government-dominated villages throughout the nation.

Such a statement would not have sounded creditable even four years ago in Washington. A decade ago, such a statement would have drawn ribald laughs at almost any cocktail party anywhere. But the disclosures of the House Committee on Un-American Affairs of recent months, proving intrigue with Communists at the higher levels of our government during the period before World War II, have changed the feeling of millions of Americans. Now, they can believe what was obvious to more cynical observers years ago.

Norris was not a "Tugwell town." It was built during the same period that other government-constructed "planned communities" were a-building by the dozen under the direction of a man who plainly wanted to make over the economy, the political life, and the government of the U. S.—Rexford Guy Tugwell, now as far off the front pages and as obscure as the remains of some of his once famous, almost forgotten villages.

Real estate men generally did not see the menace of Socialism intrinsic in Norris at the time it was constructed. Yet, if Uncle Sam could build, operate, maintain, and "keep" one such model village going, there was no rea-

son, once the idea gained public acceptance, why he could not repeat the experiment again and again.

A lot of the real estate men believed that the government's principal objective was to establish "yardstick" rates for electricity by founding the Tennessee Valley Authority. They did not foresee that, within a few years, the same benevolent government would be threatening them with other "authorities," rent controls, subsidized housing on a wide scale, and actual ownership and operation of realty developments. Millions of other non-Communist citizens laughed when they heard statements from the operators and owners of business-managed utilities, or their publicists, that TVA was not intended to be the only "valley" authority, that others were planned to be forthcoming, and that TVA merely was the opening wedge in the socialization of America's electric power industry. Today, they know.

Developments, both national and international, put a crimp in the planning of the Socialists and Communists that may well end their influence in America for decades to come. Oddly enough, the economic conditions that brought an end, or at least a check, to New Deal plans and the socialist political trend in this country also made Norris, Tennessee, a financial success. It's entirely likely that Norris will be sold for more than its original cost to Uncle Sam, dollarwise, thus enabling the TVA to claim a huge profit off its investment. The same inflation which has increased prices generally has enormously increased the values of real estate generally, including the TVA holdings.

WHY must Norris be sold? Stated generally, it is this way. Social planning, Americans have learned the hard way, cannot be pushed beyond the accustomed habits and the knowledge of the people for whom the "planning" is being undertaken. If it is, it leads to a reaction against plans that might be appropriate for another day and another generation.

The town of Norris was ostensibly constructed to house construction workers on Norris dam and to provide the agency with a place for a laboratory office and service center adjacent to Norris dam itself. It was considered that these men, particularly those in technical and supervisory positions, with a long-term job ahead of them, needed homes—not a mere construction camp—and it was figured that the building of temporary facilities would not be real economy. But TVA officials say today that the town also was intended to demonstrate the advantages of unified planning and development for small urban communities.

Concern for the welfare of its working forces, plus a resolve to secure a maximum of permanent good from the

¶ "TVA *always has been and always will be, as long as it is in existence, a quasi political movement and representative of a certain type of political thinking. The men who work for it may or may not realize this in so many words. But experienced analysts generally take that view, whether they approve or disapprove.*"

funds that it expended, led the TVA from the beginning to plan Norris as a complete community, which would provide a home atmosphere for the men living on the job, and afterwards could take its place among the small urban centers of the Tennessee valley. "These objectives have been realized in a large measure," says Howard K. Menhinick, director of TVA's regional studies and coördinator of the Norris disposition program.

The town now contains 330 family dwelling units, one residential dormitory, an administration building, fire house, telephone exchange and post office, a combined elementary school and high school operated by Anderson county, Tennessee, a privately operated grocery, drugstore, creamery, barber shop, beauty parlor, the gasoline station, the TVA Hydraulic Laboratory, the office of the TVA Forestry Department, research laboratories of the U. S. Bureau of Mines, and a number of temporary construction buildings remodeled for community uses, together with related roads and utilities.

SINCE completion of construction work at Norris dam in 1936, the houses have been made available to anyone wishing to rent them. The residents have been mostly TVA employees and non-TVA personnel employed in town service activities. At present, about 15 per cent of the residents are persons employed in adjacent towns and at Oak Ridge. A considerable number of the TVA-employee residents work in the Knoxville headquarters of the authority.

Current rental prices at Norris township average about $29 per month per dwelling unit, ranging from $14 for a low-cost, 3-room duplex unit to a maximum of $61 per month for a basic 6-room house with finished attic rooms and electric heating equipment. There has been only one general increase, ranging from 10 per cent to 15 per cent. It was in 1937. Before TVA announced on June 21, 1947, its intentions of disposing of the town, it never had offered any of the property for sale.

Average construction cost of the 330 dwelling units in Norris was $4,348, per family unit, ranging from $1,311 for a low-cost, 3-room duplex unit, to $10,170 for a 6-room, 2-story, electrically heated, single-family house.

The average occupancy rate since 1934 has been 90 per cent or better.

Just exactly how much money TVA invested in the town would be difficult to determine. An estimate of $2,000,000, including cost of acquiring the land, building the roads, and all other expenses, including the actual construction of the homes, would not be too far from the actual figure. TVA likely has had a gross income of about $1,500,000 from Norris rentals during the approximately twelve years of its ownership, but just what percentage of this could be considered "profit" would be difficult to determine, since TVA never has considered its invested funds subject to the normal interest rates which private funds, similarly invested, would incur. Also, no figures are readily available as to the cost of upkeep. But it does seem likely that TVA will show an over-all "profit" on Norris when the auction is over and the last dime has been accounted for.

THE town of Norris, having been owned and operated by TVA since

Rental Prices in Norris

"CURRENT rental prices at Norris township average about $29 per month per dwelling unit, ranging from $14 for a low-cost, 3-room duplex unit to a maximum of $61 per month for a basic 6-room house with finished attic rooms and electric heating equipment. There has been only one general increase, ranging from 10 per cent to 15 per cent. It was in 1937."

its very inception, never has had any local self-government. A town council was organized, and functioned for a time during the earlier years, but its relationship to the management of the town always was purely advisory. Since it was never counted as a Federal reservation, Norris' citizens always have had an opportunity to vote in county, state, and Federal elections.

Norris residents of today can boast not only that they have lived in a "guinea pig" community, from many standpoints, but that several of their former citizens have made notable places for themselves in the great world outside the isolated little community. These would include David E. Lilienthal, former chairman of the TVA, who now is chairman of the American Atomic Energy Commission, and J. A. (Captain) Krug, present Secretary of the Interior who used to be chief engineer for the authority. A prominent resident today is Gordon R. Clapp, chairman of the TVA board, who has lived in Norris since the town first was completed.

The town has been a mecca for tourists far and wide since its completion. Early visitors included Mrs. Eleanor Roosevelt and the late Senator Norris himself. Over the past several years, visitors from all parts of the civilized world have inspected both Norris dam and the town that bears the name of the dam site. Among the more prominent visitors have been Dr. Hugh Dalton, chancellor of the Exchequer of Great Britain; Abdel Meguid Pasha Saleh, Egyptian Minister of Public Works; and Arabian Prince Seif Al-Islan Abdullah Hamiduddin, of Yemen.

IT has been the purpose of TVA since the beginning of the Norris development, it has been said, to dispose of the town and to assist in the establishment of a local government as soon as the initial program requirements of TVA were met; but the execution of the plan was temporarily delayed be-

cause of increased demands for housing TVA employees engaged in defense and war programs and the housing of Army and civilian personnel engaged in the construction of the Oak Ridge development. Citizens of Norris have been asked to help develop a disposition plan which would assure the future of the town as a normal-going community. In accordance with the requirements of the TVA, disposition of the Norris properties must be made at public auction. Two disposition plans are being explored:

1. Sale at public auction of the town as a single unit.

2. Sale of houses and lots at public auction to individuals, including the sale of approximately 150 vacant lots suitable for private residential development.

The residents of Norris, including Mr. Clapp himself, presently are engaged in exploring various possible alternative governmental arrangements and their comparative economics. The first considerations are directed toward determining the relative advantages of an unincorporated community as compared to a corporate form of local government.

Norris today has approximately 1,250 residents, including a few children who almost have reached adulthood in a planned community without slums or any of the sociological afflictions which are supposed to ruin many good American children. These residents, long unbothered with local government matters, soon will have to come to grips with the everyday problems of local taxation, elections, business and professional competition, and their town's place in southern regional living.

In other words, Norris, Tennessee, is a government edition of a "company town"—without the responsibility and other characteristics of private corporation ownership and management which is usually associated with a so-called "company town." The TVA was able to shelter Norris from a number of economic disadvantages which would have no doubt fallen upon it, had it been a real "company town." Despite TVA's more recent "payment in lieu of taxes," state and county governments are beginning to look at the blank spots on their tax rolls, as Norris goes on operating as "government property." TVA was able to get Norris started as a going concern. The usual problems of municipal management and growth, such as policing, sanitation, fire protection, licensing, and so forth were all taken over at the outset by TVA's close and benign supervision.

BUT these very advantages which aided the launching of Norris are proving to be disadvantages now that Norris is coming of age, as an established community. In common with most every other community in the area, Norris is growing. It becomes necessary either to give newcomers similar advantages, and so expand the experiment in government operation indefinitely, or to cut it off as it stands, so as to discriminate between the old-timers and the newcomers. The second alternative would be so manifestly unjust and provocative of continued dispute that the third alternative seems to be the only solution—for TVA to get out of the whole business and turn Norris over to full, private ownership.

Whether the Norris experiment—as a temporary demonstration of a government "company town"—will be

duplicated on the sites of other public project developments is an open question. Certainly with the Federal project work now being planned along the Missouri and Columbia rivers and elsewhere there will be need for construction-employee and administrative-employee housing in remote and inaccessible spots for years to come. This is particularly true in view of the general housing shortage even in established communities—a condition which all the prophets say will be with us for some time. Indeed, it is conceivable that even some private utility companies, natural gas or electric companies, might find the need for swift development of employee housing groups in remote areas because of the demand of giant expansion and building programs of these industries.

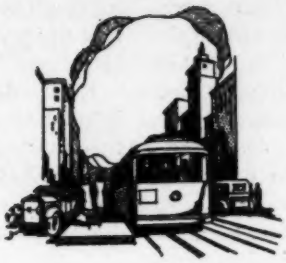
But the so-called "company town" has never been too much of a success under either private or public ownership—judging by the troubles of the coal mining companies and by the present desire of TVA to get out of the business as best and as quickly as it can. Temporarily, such paternalism (by either government or private corporations) may get swift results and be a satisfactory answer for the short term of the employee housing problem.

But eventually, and inevitably, it seems that the traditional desire of the average American is to own his own home, if possible, and to become a first-class citizen with all ensuing responsibilities in the area where he resides, plus the resistance of state and local governments to the expansion of a strange or supergovernment within their own domains—all these factors have a way of catching up with the "company town." One can get out the map of West Virginia and other mining areas and call off the names of a half-dozen communities where once were "company towns" but which have since graduated into a class of straight American home-owning and tax-paying towns and cities. That is apparently what is happening to Norris.

TVA officials, in an official account of the town's *raison d'être,* said that, once it was decided to build a permanent town, the first question to be settled was what kind of town to construct that would be most useful and successful, considering the mountainous region. The decision was to build Norris on a more or less "casual" basis, without regard to formal streets of the more traditional towns and other innovations. This was due to the topography as much as to any revolutionary-minded planners, it is maintained.

Architecturally, Norris may have been perfect. Whether or not it produced a better-type citizen would have to be decided by sociologists, after a study of the divorce rate, juvenile delinquency incidents, and a thousand other facts and factors.

But that Norris, as a government-owned community, is going out of business is now on its way to becoming a reality. Whether or not the people will be as happy living in homes owned by themselves as they were in TVA-owned and -managed houses also is a problem for sociologists and psychologists to answer—if they can.



Accidents—A Broader Approach

New tests being developed for hiring car and bus operators indicate that every third job applicant will have accidents, and also be an early quitter. Two Los Angeles psychologists show that smashups and labor turnover are closely connected.

By JAMES H. COLLINS*

Since 1912, an enormous amount of honest hard work has been done in street transit accident prevention.

Yet the industry still has no hiring tests that will tell who has the makings of a reliable motorman, bus driver, or conductor.

Accident prevention work has been done along the line of studying what happened, and framing tests to prevent that happening again.

Meanwhile, in new hirings, accident-prone employees in the ratio of about 30 per cent are being hired, to get involved in more accidents, and so on *ad infinitum*.

Coming out of their war experiences, two Los Angeles psychologists decided that the transit field was one that called for serious research because, going back through its accident prevention records, they found that many had put in a lot of time on the problem, but nobody had ever put in enough time to build a broad approach.

Also, there were new testing techniques, particularly those used in military service during the war, to find men with aptitudes for everything from bombing pilots to cargo ship-winch operators.

Dr. Floyd Ruch is professor of psychology at the University of Southern California, the author of *Psychology and Life* and other technical books, and a builder of hiring tests for people in industry, as well as test batteries used during the war in selecting personnel for a bewildering array of tasks.

Clark L. Wilson, Jr., is a submarine veteran who, on long patrols during the war, read one of Ruch's books, got interested in his work, began a correspondence, and ultimately joined him in this transit study—he is a teacher of psychology at USC.

Out of extensive surveys of jobs to be done in psychology, they de-

*For personal note, see "Pages with the Editors."

cided that this one of accident-proneness in the transit field was among the most pressing. Also, that if it could be brought down to a test battery for use in transit hiring, that industry was large and aware of its problem—and it would undoubtedly lead to similar batteries for other industries.

Curiously, before they had gone far in experimental testing they discovered that accident-proneness and early quits (labor turnover) were closely connected in transit hirings.

Also, their work, so far, has potential usefulness in accident and other insurance, both corporate and personal —useful in the sense that it might reduce rates!

Going back into the literature of transit safety work, they found that this was generally what had happened:

To put it in nontechnical language, Jim James, motorman, had a smashup, and was investigated by his superintendent, or safety promotion director, or somebody else. It might be determined whether Jim's slowness in applying the brakes when the obstruction loomed up would have caused a collision.

Once upon a time, in hiring Jim, they had tested his eyes to be sure he could see a wagon on the track.

After testing his eyes again, and finding that he could still see clearly, they reasoned that maybe he wasn't as quick on the trigger as he ought to be for a motorman's job.

So, the forerunners in the hunt for the cause of accidents all stuck pretty much to the same line in their hunt for a test program. Psychologists call it "psycho-physical" testing. It includes such things as "reaction time" ("When I flash this little light, you press that telegraph key as quick as you can—I'll measure your time"), recovery from glare, peripheral vision, and so on.

Ruch and Wilson thought, in the light of more recent testing methods, that the key to the problem was not there, and that much of the honest hard work done on it over nearly two generations had been repetition of errors.

ALL that hard work had been done in bits and pieces, by countless individuals, both psychologists and transit men.

So far as they could discover, nobody had ever deliberately taken a year to study the problem—and some of the testing methods developed in military service during the war had still to be tried in the transportation industry.

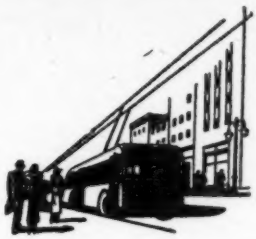
Jim James' sight, and his reaction time, and glare recovery, could be OK, but still he would have "at fault" accidents. Studying accidents after the fact, you were dealing with the two out of three hirees who had lasted long enough on the job to have a smashup. The third hiree had been fired or quit because he was rated "poor." You had another fellow who was "fair," and the third would generally turn out "good."

What made this third fellow "good"?

It was something deeper than eyesight, physical or mental reactions. It was all wrapped up and intricately involved in the kind of fellow the "good" may turn out to be on a motorman's job. It was a combination of intelligence, and special aptitudes, and interests, and temperament, and health . . .

But what combination?

And how to gauge it by tests in hiring motormen and passenger bus drivers?



Transit Accident Prevention

"SINCE 1912, an enormous amount of honest hard work has been done in street transit accident prevention. Yet the industry still has no hiring tests that will tell who has the makings of a reliable motorman, bus driver, or conductor. Accident prevention work has been done along the line of studying what happened, and framing tests to prevent that happening again."

They knew of nothing in particular that would do this job, but they did know about some things that had not been tried. With adequate research, the problem might be solved.

SEVERAL months were spent studying the literature—psychological, professional, personnel journals—to see what had been done. Also studying the records of about 250 LATL men to see what relationships there might be between accidents, change-making mistakes, and so on, the bearing of age, experience, and other factors on accidents.

No testing was done at this stage.

What had other people done in trying to solve this problem?

Did the employer know who were good and who were poor employees?

On the company's part, this preliminary work involved gathering many records of accidents, violations, overs and shorts, length of service, superintendents' ratings, and other data concerning individuals in a representative group of operating employees. The psychologists held interviews with two of the division superintendents to gain additional knowledge of what the jobs demanded, and the problems men faced in proper performance.

Out of all this came an experimental battery of about twenty tests of which ten proved useful, seven for terminations, and five for accidents, two of them in both batteries. These have not since been changed.

This work was done with coöperation of L. A. Reeves, assistant general manager of LATL, and W. A. Baker, head of the industrial relations department. These executives have had considerable experience with "systems," brought in by outsiders. They believed the psychologists had something different and promising.

They said, "You go on hiring your new bus drivers, motormen, one-man car operators, and conductors, just as you have been doing, and then let us test them our way so we can make comparisons between our tests, and what subsequently happens."

IN the course of the next three months 530 hirees were tested after employment. This testing was done on company time. Men were hired, told to report for work next morning, given a short introductory talk, and then tested. That took about three hours. The company paid them their first wages for this ordeal. Testing was done on company premises.

These 530 testees were numbered, and divided into odd and even groups, and the 265 even numbered men were taken for study in the light of the tests—or for studying the tests in the light of what happened to the men.

It was agreed that the psychologists should be fully informed about everything that happened to these even numbers, and operating superintendent W. A. Baker (since then become general manager of the Long Beach City Lines) reported everything, because he believed that they were on a promising new track.

If Jim James, No. 222, quit the job, that was reported, and the number of days he had work was written down. If he had an accident, it was entered as "at fault" or "not at fault," with full particulars, even to his discharge. If he broke company rules, had passenger complaints for discourtesy, mussed up his cash turn in — and equally if he got passenger commendation, and never had any trouble with rules—it was all reported and recorded. Ruch and Wilson could ask for further details that were important to them—and the records of these even number men, compared with their original Ruch-Wilson tests, are in strong contrast with the single accident studies that have been common in the industry. They deal with groups, not individuals, and show up more useful things.

IN the light of No. 222's smashup, the tests were searched for some score related to the happening.

Take test A. If even numbered men with high test scores in A tended to have fewer accidents than those who rated lower in A, then it could be said that test A at least had some relation to accidents, and would bear further study.

Further study might show that there was only a chance relation.

After several months of checking and revising tests against what happened, the psychologists went to the company and said, "Here is what we think will happen to your odd number men, upon whom we have had no reports, and about whom we know nothing. Going by our results with the even numbers, this is what we anticipate will happen."

In each group, the men were divided into three ratings—A, B, and C. The A men were highest in passing tests, and the C's were the low men. One of the first positive decisions made, by comparing test results with working histories, was that the C men should never have been hired. That is something definite, because they made up nearly one-third of this company's hirings.

The figures in Table I tell the accident story:

TABLE I

AT FAULT ACCIDENTS

Rating	*Test scores*	*Number men*	*Average Number accidents*
A	5,4	28	2.96
B	3	21	3.30
C	2,1,0	22	5.00
	ALL ACCIDENTS		
A	ditto	ditto	9.9
B	"	"	10.7
C	"	"	12.9
	PERCENTAGE WITH NO AT FAULT ACCIDENT		
A	ditto	ditto	32.1%
B	"	"	28.6%
C	"	"	9.1%

It was eventually found that five tests would detect the poorer risks, and the above test scores are based on the number of those tests passed by men in each group of A, B, and C.

THE result figures are based on yearly rates. The number of accidents an individual has are prorated on an annual basis. All records were for more than 100 days' service, most approximately 200 days.

What stands out is the superiority of men who test A. To hire only that group would reduce over-all at fault accidents some 20 per cent, and total accidents some 11 per cent. More striking, the A ratings — the "quality group"—disclosed 3.5 times as many individuals who had no at fault accidents as were found in the C group.

But even more striking was something that Ruch and Wilson hadn't figured on at all—terminations. If accident reductions save money in car and bus operations, so does a reduction of labor turnover, shown in Table II.

Checking the even number group, and then waiting for results from the odd number group, took several months' time.

While they were charting their early accident returns, reported from day to day, they noticed that the C men were quitting the job about three times as fast as the A men, twice as fast as the B men.

PENDING the completion of the first accident figures, they concentrated on terminations, and at the end of five months discovered that the Los Angeles Transit Lines were hiring and *training* 256 men, to get 100 who at the end of 150 days would still be on the job.

By using their tests, as developed up to that time, and hiring only the 227—job applicants who rated A and B—the company could get the same number of men to maintain the work force — a saving of 11.5 per cent in hirings and training the C men who would mostly quit within a month after going to work!

In a test battery that can be used by hiring departments, it is desirable to have as few and as simple tests as possible, and currently Ruch and Wilson are using seven tests for terminations and five for accident-proneness. These seem to do the important job of screening out the C men.

TABLE II

TERMINATION RESULTS

30 Days—Percentages of Stays and Quits

Group	*Test scores*	*Number men*	*Active (Stays)*	*Terminated (Quits)*
A	7.6	56	84%	16%
B	5,4	78	78%	22%
C	3,2,1,0	50	50%	50%
	90 Days			
A	Ditto	56	55%	45%
B	"	78	55%	45%
C	"	50	36%	64%
	150 Days			
A	Ditto	56	44%	56%
B	"	78	44%	56%
C	"	50	26%	74%

The median days served by test groups was: A men 127 days, B men 114 days, C men 39 days.

The tests so far, practically all devised by themselves, for this particular problem are mostly paper work, taking about three hours of the job applicant's time. They are still provisional, and designed to gauge space thinking, aptitudes, temperamental and intelligence qualities, and so on. To the layman, they mean little. The testee is told to cross out as many "o's" as possible on a test sheet; to pair related pictures and sort out unrelated ones; to write down what certain words suggest to him—and so on. It is all late psychology, designed to disclose aptitudes and personal qualities needed on the job of driving a bus or running a one-man streetcar.

FREQUENTLY, but not always, past investigations have been based on what psychologists call "personality inventories," in which testees are asked such questions as, "Do you like to be alone?" "Do you feel that you are a leader?" The answers are obvious. A bus driver who liked to be alone would be an unhappy bus driver—yet in applying for a job he might be that kind, but deny it, answering that of course he loved to be with people.

Ruch and Wilson use no questionnaire tests—all are tests of specific aptitudes as such, not subject to the sophisticated answers brought out by personality inventory quizzes.

In past work on transit accident-proneness, say Ruch and Wilson, there has been a failure to apply any favorable results to a new group, to determine whether they were genuine. Apparent relationships found in studying accidents, when applied in new hirings, might be useful or merely chance.

And the study of accidents after they happen discloses only information about men who have been on the job for some time—does not uncover the lower ratings who are early quitters, and most expensive in training and accident costs.

Great importance is attached to finding and eliminating at the start those applicants who lack what these jobs take; who will be unhappy in them because not equipped to perform the

work; and who will be early quitters. And to find and hire those who have the qualifications to be happy in the work, because they are able to do it well.

No predictions are made concerning individuals — only the groups.

It is an actuarial operation. Out of 100 job applicants, so many will rate A, B, and C. You cannot tell Jim James, after he passes for life insurance, that he will live so many years —merely that men in his group have a life expectancy of so many years. And you cannot tell Jim James that he will make a capable bus driver, but can say, "Out of 100 men with your health, interests, intelligence, background, and so forth, a large percentage make good as bus drivers, stay with the company, like the work."

Present results indicate that men who rate C will quit about three times as fast a A men, though the absolute rates of each group might decrease.

It is natural to stigmatize quitters as "floaters," and say that they are good for nothing, would not make good on any job.

Ruch and Wilson maintain that the "floater" is a rare animal. These C men who should never have been hired for transit jobs, and who quit because they are unhappy in them, merely lack the transit job aptitudes. In other jobs, perhaps they would shine, because they do possess some of the right aptitudes. It has been estimated by vocational psychologists competent to speak on this subject that less than 5 per cent of the general population of job hunters really lack all of the aptitudes needed to do some kind of work, and often do it well. Floaters there may be—but not because they lack abilities.

At the end of their first year's investigations, Ruch and Wilson reported three of their findings that appear to be basic:

1. Men with the longest service in these transit jobs tend to have the fewest accidents.

Indicating the men learn by experience; that the poorer hirees quit or are discharged early; that the poorer men should be detected at the time of hiring.

2. It is important to be able to weed out the poor operators at the time of hiring.

These men increase operating costs of training, accidents, and labor turnover.

3. There is a definite positive relationship between accidents and performance on the job.

That is, the man who has a bad accident record will be an early quitter, get entangled with company rules, have passenger complaints, get his cash and reports mussed up.

While this investigation is continuing, Ruch and Wilson anticipate that it will have important results for the transportation industry and other industries where accidents are an outstanding hazard.

They also see some possibilities in it for accident insurance, both personal and as carried by corporations.

When trustworthy tests have been developed, the applicant for, say, automobile insurance, might be invited to take them and, if he consented, and rated an A, his premium might be

more favorable than that paid by the B and C ratings.

If Jim James is hired to drive a passenger bus because he rates an A by such tests, his employing company might pay a different rate upon him—or upon all operating employees in its A group.

Broadly planned, this investigation could have equally broad results.

"THE recent devastating floods in the Midwest again have turned attention to the fact that for all the millions spent year after year on deepening channels and strengthening levees no effective method yet has been employed to keep major rivers within their banks. This would be excusable if it represented a condition for which no remedy is known. Yet there is not a competent engineer who does not know that any stream can be controlled by regulating the volume of water that flows into it. It is not possible to govern the amount of snowfall in any winter or the extent of spring rains. It is, however, comparatively easy to construct a series of storage reservoirs along the tributaries of any large river by which flow can be equalized over the year.

"It may be that the very simplicity of this is what bothers the politicians. It reduces their ration of pork and leaves them with less opportunity to indulge in costly social experimentation. Though the construction of reservoirs for flood control might spread the flow of water it would not spread money over a wide area. There would be no immediate cash benefits for states further downstream if appropriations went to build storage reservoirs at a river's headwaters. Nor does control for control's sake require expensive ventures into governmental construction and operation of public utilities. But the ultimate fruits of a plan which tackled the problem at its sources, which bottled up flood waters before they could break through levees, would yield such dividends in the long run as would make any annual distribution of pork seem picayune. The farmer driven from his land may be pleased when his Congressman assures him that money has been voted to strengthen the levee before another spring, or that he has some scheme which, by shifting costs to the taxpayers, may bring him some apparently cheaper electricity. He would be much more pleased if he could know that the river is being tamed so that it cannot run wild again."

—EDITORIAL STATEMENT,
The (New York) Sun.

Some Local Tax Trends

Intensified search of municipal and county governments for new sources of revenue directly or indirectly affecting public utilities followed by legislation.

By BETHUNE JONES*

THREATENING public utilities with additional direct and indirect taxes, municipal and county governments throughout the country are intensifying their search for new revenue sources.

A survey discloses that bills providing for broader local taxing authority and increased state grants-in-aid or shared taxes were widely enacted by state legislatures during 1947 in a trend which has progressed steadily in recent years. While several of the state legislative proposals of most direct public utility concern were rejected this year, the issue is by no means ended.

Indications are that such legislation, together with spreading adoption of new local nonproperty taxes where authority already exists, will be sought even more aggressively in the future as local governments of both large and small population complain increasingly of inability to furnish the expanding services demanded of them without new revenues to augment their traditional dependency upon general property taxes.

In a study of tax revenues of 1,600 cities in the United States, completed earlier this year by the International City Managers' Association, local taxes on gross receipts of utilities or on utility bills were reported by 176 cities. It was found that 59 cities in New York state were levying a tax of 1 per cent or more on utilities, while 42 Texas cities were imposing a similar tax at rates varying from 2 to 5 per cent. As another example of local levies, the study revealed that 27 Florida municipalities were imposing taxes up to 10 per cent on consumer bills of telephone, electric, and gas companies.

Since that study was made, additional cities have joined the list of those extracting new or added revenue from public utilities, although com-

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plete over-all data is not immediately available. Jacksonville recently became the latest Florida city to adopt a new tax on the use of public utility services, with similar measures being proposed elsewhere. Cities also are revising upward the amounts they receive from utilities in granting new franchises, as exemplified by additional revenue to be collected by Cheyenne, Wyoming, under a recent 25-year franchise to the Cheyenne Light, Fuel & Power Co.

OHIO cities were unsuccessful in their attempt to secure enactment of state legislation to permit them to levy taxes of 3 per cent on gross receipts of public utilities and municipal taxes of 3 per cent on consumers' utility bills. The municipal interests had proposed that the state vacate the utility tax field and turn it over to municipalities, thus removing objections which had been raised by the Ohio Supreme Court last year in invalidating local taxes on consumers' utility bills in Columbus and Youngstown.

Maine's legislature this year rejected a bill which would have permitted municipalities to levy a 5 per cent tax on the use of electric, gas, water, telephone, and telegraph services. Another rejected Maine bill would have empowered municipalities to tax personal property of telephone and telegraph companies. Proposed authority to permit municipal officials to seek highway maintenance and snow removal assistance from bus companies also was defeated.

The Illinois legislature killed measures which would have permitted cities to divert the revenue from public utility taxes from the state to municipalities. Pennsylvania's legislature turned down a bill to allow local governments to tax the real estate of public utilities, now exempt. Introduced in the 1947 Alabama legislature, still in session at this writing, was a bill to permit cities to increase license taxes against public utilities by 50 per cent. Another Alabama bill would increase the state's hydroelectric tax from two-fifths of a mill per kilowatt hour to an even 2 mills; extend the levy to steam generating plants, and provide for dividing one-half of the receipts among the state's 67 counties.

A REVISED system of taxing telephone companies enacted in Vermont this year allows taxation of real estate of telephone companies by towns, but does not allow taxation of personal property by the municipalities as had at one point been proposed.

Governor Lane vetoed several Maryland bills to extend the taxing and licensing powers of the city of Baltimore. One of the bills would have authorized the city to impose a tax up to 9 per cent on the gross receipts from streetcars, as compared with a present 3 per cent tax. Another of the measures would have permitted the city to impose a tax of up to 9 per cent on the gross receipts of fixed-route busses, while another would have enabled the city to issue franchises for bus operation in Baltimore.

In vetoing the bills, Governor Lane said he would call a special legislative session to authorize additional Baltimore taxing powers should the city's financial position require it. He has since announced such a special session would be called. Under temporary authority, Baltimore now is levying a 5 per cent utility consumers' tax.

SOME LOCAL TAX TRENDS

IN addition to new revenue measures aimed solely at public utilities, other general levies of direct and indirect concern to utilities also are figuring in the local revenue trend.

Sales taxes, often accompanied by use taxes, are prominent among the potential revenue sources receiving attention. In New York state, where New York city has used a municipal sales tax as a major source of revenue since the depression period, the legislature this year extended local sales tax authority to other political subdivisions. Counties were empowered to levy taxes up to 2 per cent on retail sales except food and drugs, with cities of more than 100,000 population permitted to use such a levy if the county in which it is located does not choose to impose it.

Erie county was the first to use the new sales tax authority in New York state, with the enactment of a 1 per cent levy. Syracuse recently followed with the adoption of a 2 per cent sales tax. Proposals to replace such local taxing authority with a state-collected 2 per cent sales tax have been opposed by the state administration in New York.

The Illinois legislature this year authorized cities to levy a sales tax of half of one per cent, on approval in a referendum. Under terms of the measure, the state would collect the tax for those cities enacting it. Chicago has been considering use of the new authority.

NEW JERSEY'S legislature enacted a bill authorizing 11 seashore cities to levy "luxury" sales taxes of 3 per cent on hotel rooms, liquor, and amusements, and 2 per cent on cigarettes and tobacco products. Thus far being used only by Atlantic City, the new law replaces a broader 1945 enabling act which was voided by the courts on the grounds that it was special legislation affecting only Atlantic City.

A measure enacted by the West Virginia legislature validated gross sales taxes being imposed by most of the state's major municipalities. The new law, which was passed after the validity of such local levies had been questioned, gives cities the right to levy gross sales taxes on business and industry up to the amount imposed by the state.

Legislation to authorize local sales taxes was considered but not enacted this year in a number of states, including Delaware, Oklahoma, Missouri, Nevada, and Utah. Such a measure for the District of Columbia was rejected by the House of Representatives. New local taxing powers granted by the Idaho and Pennsylvania legislatures may lead to some additional local sales taxes, although no such action has been reported.

¶ "A SURVEY *discloses that bills providing for broader local taxing authority and increased state grants-in-aid or shared taxes were widely enacted by state legislatures during 1947 in a trend which has progressed steadily in recent years. While several of the state legislative proposals of most direct public utility concern were rejected this year, the issue is by no means ended.*"

Under the authority of already existing broad home-rule laws, San Francisco recently joined some 63 other California municipalities in adopting a local sales tax. Levied at the rate of half of 1 per cent, the new San Francisco tax is expected to yield $6,000,000 a year. Los Angeles already has such a tax, yielding an estimated $7,000,000. Other major cities imposing local sales taxes include New York, where a 2 per cent tax produced more than $46,400,000 last year, and New Orleans, which gets some $6,000,000 a year from a 2 per cent levy.

NEW state sales taxes enacted this year by Maryland and Tennessee were accompanied by provisions for increased state aid to local districts, while Ohio raised the amount of its sales tax collections shared with municipalities. North Dakota municipalities want both new local excise tax powers and a slice of receipts from the state sales tax.

Various types of business license and "privilege" taxes, often based on gross receipts and thus to some extent having an effect similar to sales taxes, are continuing to spread. Although Missouri state law bans local sales taxes, "privilege" taxes based on gross business receipts are levied by Kansas City and St. Louis. Among the cities imposing business license taxes computed as a percentage of gross sales are Richmond, Tampa, Wheeling, Harrisburg, and Sacramento. Gross receipts taxes of similar character are being levied by others, including Salt Lake City, Roanoke, and Columbus, Georgia.

Pennsylvania this year enacted legislation authorizing the Philadelphia and Pittsburgh school boards to impose a mercantile tax of one mill on retail business and half-mill on wholesalers. The Pennsylvania legislature also gave 3,500 cities, counties, and other local taxing districts the right to adopt practically any tax or license fee not now levied by the state.

New York state's legislature authorized cities of more than 100,000 population to levy a general license tax on business, trades, and professions of one-tenth of one per cent of gross receipts. Such a municipal tax already was in effect in New York city. Nebraska's legislature this year increased the amount of occupation tax which cities and villages may impose.

INCREASING use of business license fees and taxes to meet rising costs of municipal government was recently forecast in a comprehensive study of municipal licensing in Utah cities and towns prepared under sponsorship of the Utah Municipal League. The survey revealed that 10 Utah cities already levy a business tax on a basis of gross sales, the most recent addition to the list being Salt Lake City.

Philadelphia and Toledo were left as the only major cities levying municipal income taxes when the Missouri Supreme Court this year sustained a lower court decision invalidating a St. Louis income tax measure. St. Louis had expected to derive $2,500,000 a year from the tax, which was adopted last year at a rate of one-quarter of one per cent on the gross earnings of individuals and net profits of corporate and other businesses.

A bill to cut Missouri's state income tax in half and authorize municipalities to levy an equal tax on income locally was introduced but not enacted in the Missouri legislature this year. It may

Study of Tax Revenues in the United States

"IN a study of tax revenues of 1,600 cities in the United States, completed earlier this year by the International City Managers' Association, local taxes on gross receipts of utilities or on utility bills were reported by 176 cities. It was found that 59 cities in New York state were levying a tax of 1 per cent or more on utilities, while 42 Texas cities were imposing a similar tax at rates varying from 2 to 5 per cent."

come up again when the legislature reconvenes next year. School district authority to impose an income tax has been proposed in Kansas City.

Acting under authority of the new Pennsylvania legislation broadening local taxing powers, the Coraopolis, Pennsylvania, school board recently adopted a budget calling for a one per cent income tax on all wages, commissions, and fees of residents and on net profits of business and industry inside the municipality of 11,000 population. Scheduled to go into effect January 1st, depending on passage by the school board of a special local tax law, the measure would be the first school district income tax in the nation.

MINNESOTA'S legislature this year authorized Minneapolis to levy a local "earned income" tax. Such a levy, estimated to yield $5,000,000 annually and dedicated to schools, was rejected by Minneapolis voters at a referendum in June but may be revived.

A bill prohibiting Wisconsin cities and counties from levying local income taxes was enacted by that state's legislature, thus removing several Wisconsin municipalities from the list of cities throughout the country which have given consideration to this revenue source.

Proposals for enabling legislation to permit local governments to enact income taxes were unsuccessfully raised this year in some states, including Connecticut and Georgia. Indiana's legislature rejected a measure under which cities, towns, and counties would have been permitted to levy a 20 per cent surtax on state gross income taxes.

Taxes affecting motor vehicle operation also figure prominently in the search for new local revenues. Use taxes of $5 a year on passenger automobiles and $10 on commercial vehicles

were among eight new levies which the New York state legislature empowered counties and major cities to impose under a measure enacted this year. Although the new local taxing authority is not yet widely used, there already is talk of extending it to smaller municipalities and possibly adding to the list of levies. New York city late in the spring abandoned a proposed motor vehicle use tax measure in the face of stiff opposition from automotive groups, but there since has been talk of reviving it.

Minnesota's legislature enacted a "wheeling tax" statute, empowering the Minneapolis city council to levy a tax of $10 on private passenger automobiles and $15 on trucks, provided a majority of the voters approve such a proposal at an election. Such a referendum had not been called at this writing, however.

BILLS permitting two counties and one city to tax motor vehicles were passed by the Tennessee legislature. Local taxing districts in Pennsylvania were empowered to levy taxes on personal property, including motor vehicles. Authority to impose license fees on motor vehicles was included in new taxing power given the city of Boise by the Idaho legislature.

Nevada's legislature approved a measure providing for an increase of 1½ cents a gallon in the state gasoline tax rate, with the added revenue to be allocated to the counties in which the tax is actually collected. The measure is optional, with counties permitted to decline to have the added tax imposed within their borders. Only 5 of the state's 17 counties accepted the increased levy.

A bill to permit Jefferson county, in which Birmingham is located, to levy a one-cent county gasoline tax was passed by the Alabama legislature.

Kansas City this year increased its municipal gasoline tax rate from 1 to 1½ cents a gallon in a move expected to produce an additional $332,000 a year. A new local gas tax, intended to yield $80,000 annually, was enacted this year in Cheyenne, Wyoming.

A total of 242 cities taxed gasoline sales at the end of 1946, according to the International City Managers' Association. The local tax rates vary from a fraction of a cent to 3 cents a gallon.

GENERAL sentiment among municipal revenue officials, however, appears to favor increased sharing in the receipts of state-collected gasoline and other automotive taxes rather than the local imposition of such levies. This trend, which has the effect of either raising state taxes or keeping them at a higher level than would otherwise be necessary, was reflected in the granting of increased road aid to local governments this year by the legislatures of at least 11 states—Arkansas, California, Colorado, Indiana, Maryland, New Jersey, New Mexico, North Dakota, Oregon, Utah, and West Virginia.

In several instances the legislation enacted this year for increased distribution of state highway user taxes to local governments was accompanied by higher state tax rates. In California, for example, several automotive taxes were increased, including a 1½-cent boost in the gasoline tax, to raise an estimated total of $990,000,000 over a 10-year expanded road construction, with $204,000,000 of that mount for city streets and county roads.

Colorado and Maryland both enacted gasoline tax increases along with their increased aid to local governments. North Dakota counties will share the receipts of increased car and truck license fees under legislation passed this year.

Automotive taxes were among the most extensively shared state levies even without the new legislation enacted this year and similar action now being proposed. At the start of the year gasoline or some kind of motor vehicle tax revenues were being shared with local governments by a total of 30 states.

"THE annual report of the Pennsylvania Railroad . . . calls attention to the healthy maturity of our country. . . . as I read the letter-press, looked at the maps, charts, and other ballyhoo, I could only think of one fact; namely, no government ever built, ever added to, ever strengthened, ever improved this largest of American railroads. No government, Federal, state, or municipal, ever did anything for the line, but all took taxes out of its prosperity.

"It was created by private persons as a private business venture. It has so remained except when, almost disastrously, the government took it over during World War I. It is a private property today. And no government-owned railroad in the world equals it in size, service, or usefulness. What is true of the Pennsylvania is, in large measure, true of every American railroad.

"The strength of the United States during this war lay not in government regulation or control, nor in the piling of bureau upon bureau, nor in the expanding of the personnel of departments. It lay in the railroads, the steel plants, the automobile factories, the little factories owned by families, the big enterprises owned by myriads of stockholders. No government-owned enterprises anywhere in the world showed the ability or the capacity to produce in equal quantity or with equal efficiency. The war was a test and private enterprise in the United States met the test."

—GEORGE E. SOKOLSKY,
Columnist.

Washington and the Utilities

Reclamation Meet Hears Request for More Funds

CLARIFICATION of U. S. Bureau of Reclamation expenditures during this fiscal year is expected during the forthcoming session of Congress, which was called to open November 17th. So said Don McBride, secretary-manager of the National Reclamation Association, on the eve of his association's convention at Phoenix, Arizona, in late October.

"In the aggregate the Bureau of Reclamation probably will not spend as much as its appropriations and carry-over," McBride said, "but the bureau is limited to 10 per cent in transferring funds from one project or part of a project. Due to construction delays, materials shortages, and other things, there will be surpluses on some projects and deficiences on others."

Mr. McBride said these surpluses and deficiencies will result because the Senate and House conference committee that worked out the final Interior Department appropriation bill was "most adamant" in directing the bureau to proceed on an economic and businesslike basis with construction of projects.

"The committee told them it did not expect them to hold back funds appropriated for the fiscal year 1948. It naturally follows that supplemental appropriations will be needed for some projects," he explained. "This is not unusual. It happens every year."

MCBRIDE expressed the view the discussion of the bureau's spending program that arose over charges of Styles Bridges, New Hampshire Republican and chairman of the Senate Appropriations Committee—that the bureau would violate the Anti-Deficiency Act if it asked for supplemental appropriations of $36,000,000—may turn out to be "quite healthy."

"It is pointing all of us toward a long-range program of reclamation construction," he said, "and emphasizing economical construction."

He pointed out that no interest is paid on money during construction of a project, and that the project does not return benefits to the water users or the government in the form of taxes until it is completed. A good example, he said, is the Gila project in Arizona that has been under construction for more than ten years.

The greatest spur to the nation's reclamation program, he said, is the fact that more and more people are seeking opportunities each year to produce from the soil. A close second, he added, is the demand for power which topped all previous records September 30th, and this factor, he said, is very important to national defense.

The Bureau of Reclamation wants $300,000,000 a year in appropriations for the next six years, for its irrigation and power developments. This was the average figure announced by Reclamation Commissioner Straus in his speech at Phoenix. Straus repeated his endorsement of a $2,000,000,000 program which would irrigate 3,875,000 more acres of land and add 2,250,000 kilowatts of Federal generating capacity by 1954. He urged that Reclamation spending "get off the merry-go-round," and settle down to a uniform yearly figure which planners could count on. Straus predicted early congressional passage of the Rockwell Bill, which would cut the interest rate

on power investment in Reclamation's hydro dams, and which would modify power cost amortization from fifty to seventy-eight years. Next goal of the Reclamation Bureau, he asserted, would be extension of water repayments from forty to seventy years. Straus echoed the sentiments of Interior Secretary Krug, who pleaded for a steady development program of Reclamation geared to American prosperity.

Man-power Controls in a National Emergency

WITH the talk of proposals for reviving some form of price control and even possibility of reviving some form of priority control for critical materials, speculation has arisen as to whether man-power controls will be proposed. This is all part of the discussion which has arisen in anticipation of a special session congressional debate over implementing the Marshall plan for aid to Europe. As far as man-power control is concerned, it does not seem to be in the immediate picture. This, despite the fact that skilled labor is still in short supply in every section and there is sharp competition for what is available, between essential and nonessential industry.

The labor supply situation on the whole is somewhat easier due to the fact that we have more man power inside of the country, now, as compared with the man power which was outside of the country (with the armed forces) during the war emergency. But the supply of skilled man power is still touch and go in many lines, because it takes more than a few months to reconvert the willing GI into the adept technician.

But organized labor, some branches of which have been periodically crying for a revival of price controls, would freeze and bolt if any attempt were made to link price control with labor control. Indeed, many of the unions now are preparing to launch their third round of wage increases.

While man-power control, as such, is not in the immediate picture, the military authorities have it very much in mind for emergency purposes. There may be even some attempt to pass "enabling legislation" in the next session of Congress. Public utilities as essential industries will be interested to learn that blue prints call for a draft of men for industry, as well as for military service, if, as, and when a war crisis should arise.

TESTIMONY before the Senate War Investigating Committee by Defense Secretary Forrestal and Chairman Thomas J. Hargrave of the Munitions Board disclosed the military planners propose complete mobilization of industry, absolute control of the civilian economy, and the drafting of man power for industry as well as military service.

"There is no authority now for the type of mobilization we will need if war threatens," Forrestal said. "We want to have all the necessary laws and directives on the shelf ready to pull out when they are needed. Mr. Hargrave and his legal staff are working on that."

Asked later by reporters if by "on the shelf" he meant that the proposed legislation should be enacted before an emergency, Forrestal said no, that he wanted it ready for quick passage by Congress.

But when Hargrave took the stand, he asserted "everything should be ready" and that it would be advisable for Congress to pass legislation next year providing for total mobilization.

"If we waited for the approach of storm clouds, the passage of this legislation might create the very crisis we are trying to prevent," Hargrave told the committee. "But if we do it next year, the action would hardly create a ripple."

The Winning of the East

THE race of the various natural gas pipe-line companies to the coastal markets in New England and Middle Atlantic areas is beginning to assume proportions resembling Xenophon's famous March to the Sea. Much remains to be done, of course, by way of getting ac-

tual authority from Federal and state commissions to serve the eastern cities. And a still more practical consideration at this point is securing necessary pipe and the necessary financing to pay for said pipe.

But the plastic stage of development is right now. What is decided within the next six months probably will crystallize into the eventual pattern of transcontinental or semitranscontinental natural gas pipe-line operations. Filling in the supplemental details—feeding, promoting, and exploiting the markets surrounding the eastern terminals—all remain rather nebulous. But it is a pretty good bet that the way the trails are broken for the original pipe-line rights of way to the East will determine the organization of the industrial setup in the final analysis.

Pacing the field, of course, is Texas Eastern Transmission Corporation, with its Big Inch and Little Inch former government petroleum lines already in place and carrying natural gas from Texas to the Philadelphia area. The Federal Power Commission has cleared the certificate and the Securities and Exchange Commission has cleared the financing. Texas Eastern, in other words, is in place and ready to do business with plenty of plans for further operations later on, including another line to the East.

BUT two other contestants are in the field. Transcontinental Gas Pipe Line Company now is before the FPC on hearings with respect to its certificate to build a $172,000,000, 26-inch pipe line from Texas to New York city. This would follow the southeastern coastal plain up through Baltimore, a distance of 1,839 miles, using 26-inch pipe. Texas Eastern Transmission Corporation promptly moved for a dismissal of Transcontinental Gas Pipe Line Company's application. Texas Eastern counsel claimed that Transcontinental could not get the necessary pipe. An FPC examiner denied this motion for dismissal, however, and the matter will continue to be heard on its own merits.

Also before the FPC is the application of Tennessee Gas & Transmission Company for a certificate to increase its natural gas pipe-line system by 455,000,000 cubic feet a day through a $150,000,000 extension to Boston. Although these various proposals are not strictly competitive in the sense that they definitely presage operations within the same metropolitan market area, there is little doubt of lively rivalry between the respective natural gas interests.

All told, it would seem that the gas industry is being treated to a revival, in reverse direction, of that old melodrama, "The Winning of the West." But there are some cynical souls who say that if steel and pipe production do not come along more rapidly than construction price increases, some of these plans may turn out to be "pipe dreams"—temporarily at least.

INCIDENTALLY, protests are being heard in Washington over the way FPC is using the "emergency basis" for allocating natural gas supply as between cities and other service areas in the Middle West. Although these allocations ostensibly are being made as "temporary emergency," the effect on contract commitments for wholesale natural supply may be in the nature of pushing Humpty Dumpty off the wall. In other words, it is feared that it may not be possible to restore the *status quo ante* after the emergency has passed.

In mid-October, officials of the East Ohio Gas Company came to Washington to contest an emergency order of the FPC which they claim would mean a cut of 8,000,000 cubic feet (diverted to other cities) from East Ohio's daily firm delivery of 50,000,000 cubic feet from the Panhandle Eastern Pipe Line Company. Mayor Burke of Cleveland joined the issue with a telegram to FPC, and other towns served by the same distributor—Akron, Canton, Youngstown, and smaller communities—likewise are concerned. Commissioner Olds of the FPC, who has been supervising these emergency allocations, has taken immediate charge of the situation. But eventually the whole

commission is going to have to face the major issue of whether the FPC can overturn firm contract commitments between pipe-line companies and distribution companies in such a way that one city or area will be preferred to another.

The "Power" Lobby

THE *Congressional Quarterly Log*, published in Washington, D. C., by Nelson and Henrietta Poynter, contains a copyrighted tabulation of registered lobbyists' financial reports for the last session. It is somewhat amusing, but perhaps logical to the compilers of this interesting statistical reference work, that both the National Association of Electric Companies and the National Rural Electric Coöperative Association were grouped together under the classification of "organized power lobbies."

Still more interesting is it to learn that the NRECA, which is but one branch of the co-op movement usually represented as poor and downtrodden (aside from being tax exempt), actually spent more money for lobbying than the NAEC, which represents the bulk of the business-managed electric power companies throughout the nation. Specifically, the Poynter study lists the NRECA as spending $227,000 and the NAEC $190,000. The NRECA figure includes $74,000 for new offices. The NAEC also has new offices but no separate account of that is listed.

This combined total for the "organized power lobbies" stands second in the amount of expenditures only to the organized labor lobby. The American Federation of Labor spent $834,374, largely in a vain effort to defeat the Taft-Hartley Act. (CIO is not reported.) The Committee for Constitutional Government (to curb labor monopolies and plug tax reductions) spent $339,208. Another high figure performer was the Citizens Committee for Displaced Persons, which spent $288,727 in a futile attempt to get 400,000 displaced persons in Europe admitted to the United States without regard to immigration quotas.

All told, the *Congressional Quarterly Log* shows 911 individuals and organizations registered, but only 130 filed financial reports. The top 100 reported total lobbying expenses of $3,744,100. Seventeen more reported lobbying expense of less than $1,000 each, and 13 reported no expense at all. Many of the most important pressure groups in Washington are not reported at all in the *Congressional Quarterly* roundup.

The Atom Is Still with Us

THE Atomic Energy Commission is witnessing steps to prosecute a liaison or industrial advisory committee to supervise the industrial use of atomic energy. It is still all very much in the blue-print stage. But members of the interim advisory committee, headed by James W. Parker, who is president and general manager of Detroit Edison Company, recently met with the AEC in Washington to work on plans for a permanent committee organization. This committee would function as the funnel for channeling confidential information concerning technical utilization of atomic fission, when, as, and if such information becomes available for industry.

It will probably take as much as two months for the interim group to make its next progress report to AEC. But it is known that its recommendations will cover the following four points: (1) the desirable size and organization of the committee; (2) the scope of industrial representation which would participate in its work; (3) the desirable amount of authority and limitations of authority which the committee would have; (4) miscellaneous considerations of a long-range program of industrial participation in atomic research and development.

In addition to Chairman Parker and his company associate, Walker Cisler (who will function as his assistant), other members of the interim committee will include officials of prominent engineering firms, oil companies, an officer of the Bell Telephone Laboratories, aviation associations, and the TVA.

Exchange Calls And Gossip

Minimum Wage Hike Seen As "Sure Thing"

SOME independent telephone companies face a stiff legislative fight during the next four or five months if they intend to oppose present legislative labor trends in the telephone field. They face a most difficult situation in their pleas to hold the line on a national minimum wage. This now appears likely to rise through legislation from 40 cents an hour to 60 cents an hour or better. And they might also expect strong attempts to abandon or cut down the present exemption in the National Fair Labor Standards Act of telephone operators working in exchanges with 500 stations or less.

The thing that permits such advance estimates of what is likely to happen in Congress next year is the present attitude of the men who will write the bill amending the Fair Labor Standards Act—the House Education and Labor subcommittee, headed by Representative McConnell (Republican, Pennsylvania). Hearings were held late last month and early in November which touched on these telephone affairs, and the Congressmen indicated a disposition to consider changing the present statutory standards. The prime example was the appearance of Joseph A. Beirne, president of the Communications Workers of America (CWA), before the committee to plead for revision of the act.

Beirne asked for a hike in minimum hourly wages to 75 cents, and also urged dropping of the 500-station exemption from the law. He was not altogether successful in the first instance, because, under questioning, he agreed that some of his present contracts with Bell system companies (contracts which start new employees at about 60 cents an hour) were quite satisfactory to the union. Beirne also opined that it was possible that a new employee might not be worth 75 cents an hour to start.

BUT the CWA chief fared better when he raised the issue of small exchange exemptions. He wondered what the economic justification was for setting the exemption arbitrarily at 500 stations, rather than 300 or 1,000, for that matter. When legislators tried to explain that the 500-station limitation covered most needy independent exchanges, Beirne retaliated that this was not necessarily true, and that many Bell system switchboards were of this size. Bell system, he pointed out, had voluntarily paid minimum wages, even though it could have insisted on its legal prerogatives and refused to meet the standard wage floor. Beirne then hazarded a guess that a 300-station exemption would more nearly meet the stipulations that the exemption was designed to meet; namely, the number of stations in the exchange could not economically return enough revenue to pay standard wages.

Here is his statement:

> The CWA believes that no exemption at all should be granted. If, however, one is to be continued, it should apply only to coöperatives servicing less than 300 stations and to such small enterprises as are individually owned and are not controlled by or have intercompany relationships with other companies or enterprises which together service an aggregate of more than 300 stations. No exemption should be granted to any company or exchange having more than two switchboard operating employees.

It has been suggested that any statutory exemption based on number of personnel especially limiting the exemption

to two employees, might have a depressing effect on small-town telephone service.

Such a 2-operator limit would practically doom small boards which do not now operate on a 24-hour basis to forgoing any improvement of service, lest they come under provisions of the act.

ONE other angle of Beirne's testimony was notable. He recognized that there was need of higher telephone rates to support increased wages. On the face of it, this would seem to be at a tangent with earlier statements in which he implied that wage increases should be absorbed by the investors. Beirne stayed away from any discussion of the stockholders' position, but he did put these sentences into the record:

> Substandard wages cannot be allowed to exist because the employer is a public utility and thus subject to regulation . . . There can be no justification for a policy which, in the interest of public utility regulation, shifts the burden of paying for telephone service from the consumer to the workers in the industry. The subscribers to telephone service are entitled to low rates only if they are fair, and a rate cannot be fair to the public if it is based upon the suffering and privations of the people who must furnish that service by personal labor.

This could certainly be construed as a broad hint to public utility commissions that the union would not oppose necessary adjustments in rates which resulted from a wage increase.

Whether the United States Independent Telephone Association would make additional presentations to the House subcommittee studying the amendments was unknown. The USITA presented its case last spring for continuing the minimums and increasing the exemption to 1,000-station exchanges. Evidently the association believes that a realistic approach to rate adjustments by utility commissions will take care of any telephone hardship cases likely to arise out of altering the exemptions or minimum rates. Its hold-the-line position against increase in the national minimum wage is as good as lost, if all congressional indications are not faulty.

Uncle Sam Now Getting Bigger Telegraph Bill

THE various agencies of the Federal government are now paying the full commercial rate for telegraph service. Late last month the Federal Communications Commission handed down its decision to this effect. Thus ends a long-standing differential which has permitted Federal messages to be carried at lower rates than regular messages. Ever since Western Union obtained some rights of way along frontier railroads on the public domain away back in the 1860's, the company has been granting this subsidy to the government, under terms of the Post Roads Act of 1866. The equity in these rights of way has long since been fully liquidated, but for some reason the differential has continued. The differential applies only to "domestic" messages, including those to Canada, Alaska, Newfoundland, Puerto Rico, Mexico, Labrador, and Miquelon.

Last spring, Senators White (Republican of Maine) and McFarland (Democrat of Arizona) introduced Senate Bill 816, which would have repealed the Post Roads Act and restored the normal rate. Somewhat revised, the bill finally made it through Congress just before the close of last session. As passed, it gave FCC jurisdiction either to continue or change the rates. Accordingly, Western Union applied for permission to hike these rates. They were immediately suspended, in the normal procedure of handling such rate increase requests, and were finally allowed to take effect on October 23rd. A majority of the FCC approved the new schedules. Commissioners Durr and Walker dissented. (See, also, page 735.)

THE commission majority took the position that if no substantial difference could be shown between government messages and ordinary commercial messages, then the Federal rate should be the same. Said the commission:

> We think the differential should be removed by raising the government rates to the level of the commercial rates. The government traffic is a very small part of total

traffic. It would not be reasonable to adjust a nation-wide rate schedule under which almost 99 per cent of Western Union's message traffic moves in order to accommodate a little more than 1 per cent of the traffic, particularly since the resulting total return to Western Union after an increase in rates for the latter traffic will still be within the limits of reasonableness. . . . Although it is reasonable to expect that elimination of the government telegraph rate differential may result in some loss to Western Union of government traffic, we do not consider that this should require the continuance of the rate differential for which we have found no sound basis.

However, the commission insisted that the existing priority schedule by which certain government messages can be sent promptly should be continued, if the agency sending the message asked for such priority.

Apparently this insistence was agreed upon mutually at hearings.

Dissenting Commissioners Durr and Walker thought that Western Union should have been called upon to show economic justification for charging the government full rates. They cited a section of the Federal Communications Act which purported to require that the petitioner in a rate hearing assume the burden of proof to show that the increased charge is just and reasonable. They criticized Western Union for being unable to show whether or not Federal messages were being carried at a profit or loss, and that this should have been the determining factor in removal or retention of the rate differential.

Then Commissioners Durr and Walker took the commission to task for its attitude toward Western Union's petition. They said:

> The commission has allowed Western Union to coast through problem after problem, and to skirt its legal obligations under the act. The result has been to make futile our hearings in Western Union cases. Western Union should not be permitted to rely on the commission to perform for it the company's obligations under the act. This is not the function of a regulating agency.

While the majority of the commission ignored this line of reasoning, it did rap Western Union's knuckles for a poor preparation of its case. It said in conclusion:

> We think Western Union's presentation fell far short of the standards of care and thoroughness in preparation and presentation which the commission is entitled to expect from those appearing before it.

The increase will mean about $1,000,000 a year in added revenues to the company.

State Rate Increase

THE Pacific Telephone & Telegraph Company has obtained approval of the Washington Department of Public Utilities for a temporary increase in an amount of about a million dollars a year. Previously, the department had directed the company to pass on to exchange ratepayers in each community, on a pro rata basis, increased exchange rates which would reflect the increased operating expenses of the company for various taxes. These included municipal occupation, excise taxes, business taxes, and use of public streets—all of which may be levied by local communities in the state of Washington.

However, the department did not think it would be reasonable to require a statewide rate increase to offset municipal taxes since some communities tax more than others. A similar discrimination exists in the case of intrastate toll users, the department found, but due to the excessive cost involved in attempting to pass along municipal taxes to toll users within the municipality, the company was ordered not to do so in the case of toll rates.

The latest temporary increase amounts to approximately 14 per cent and is calculated to yield a return of 5 per cent on a depreciated rate base. As against the million-dollar temporary rate increase allowed, the company had sought increases aggregating $6,300,000 a year.

The 14 per cent general increase was allowed on top of the local tax-expense increases, when the department recognized that the company was still unable to get a fair rate of return on its investment, due to increased costs.

Financial News and Comment

By OWEN ELY

Consolidated Edison

Consolidated Edison in the twelve months ended September 30th covered the $1.61 dividend rate with only a penny to spare (consolidated earnings basis) and in the fourth quarter (seasonally the year's worst) earned only 4 cents a share. This poor showing appears to be explained by the following factors:

(1) The gas department, which accounts for about 15 per cent of revenues, is now operating in the red. The company expects in the not distant future to ask the public service commission at Albany for a rate increase. However, even temporary relief from the present burden of high fuel costs (see accompanying chart) appears unlikely during the present heating season.

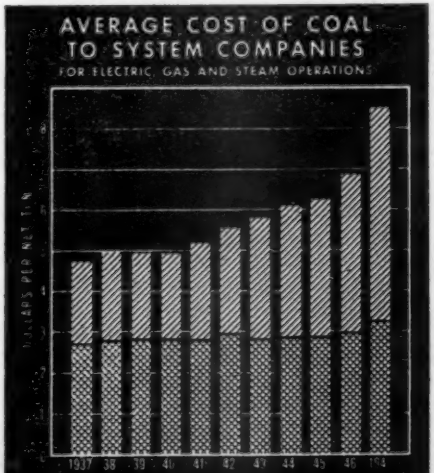
(2) Operations are currently (for the first time) beginning to reflect fully the effects of the substantial cut in residential electric rates of August, 1946, and the advance in wages dating from last January. These two factors alone, after tax adjustments, amount to about $1 a share in the aggregate.

(3) While Edison is fortunate in having automatic fuel adjustment clauses in practically its entire electric rate structure (probably no other large company has the benefit of this clause in its residential rates), there is a lag in the application of the new rates, so that net earnings are not immediately restored.

(4) While the bond refunding program, now completed except for some $30,000,000, should result in a modest gain in share earnings (probably approximating 15 cents a share), the full amount of this saving has not yet been reflected because of duplicate interest payments.

(5) There appears to be an abnormally large increase in maintenance expenditures, which in the quarter ended September 30th were nearly one-third larger than last year (compared with an increase in other operating expenses of about 18 per cent). Presumably, much of this work is of a nonrecurring nature.

The company is hopeful of effecting substantial operating economies as soon as its $250,000,000 construction program really gets under way. At present it has to use much obsolete equipment. Moreover, as soon as the building program spreads to new office buildings, hotels, theaters, apartment buildings, etc., this new business (including some air conditioning) should prove quite profit-



Consolidated Edison "News and Views"

able. While New York city perhaps does not have the growth characteristics enjoyed by some other areas with respect to industry, it nevertheless has good prospects for growth merely to relieve present congestion. Edison gas business should benefit by the anticipated transportation of natural gas from Texas fields, plans for which are now actively under way.

The prospect of rate relief is somewhat clouded by the fact that the general investigation of electric rates initiated by the state commission last year may result in some further downward readjustments of electric rates, partially offsetting the anticipated increase in gas rates. However, Edison is earning only about 5 per cent on its rate base (even after allowance for full write-offs as favored by the commission) which is certainly one of the lowest rates of return for any of the large companies. Over the longer term, the regulatory authorities should, in justice to the security holders of the largest operating utility, permit a more adequate return on investment.

The company has indicated its confidence that the current shrinkage in earnings will prove only temporary by declaring the usual 40-cent quarterly dividend, payable December 15th.

Analysis of Utility Securities

THERON W. LOCKE of Goodbody & Company has prepared recent analyses on North American Company, South Carolina Electric & Gas, and Cincinnati Gas & Electric.

The basis of his *North American* break-up estimate of $35.50 is indicated in the accompanying table. The stock has been selling recently around 26 compared with the year's range approximating 34-23. (The high should be adjusted for the value of the rights to buy Cleveland Electric Illuminating, making a net figure around 30.) It recently advanced from 22⅞ to 27¼ on the combined news of (1) a distribution of Potomac Electric Power and Wisconsin Electric Power stocks worth about $7.37, and (2) a favorable court decision which is expected to consummate the dissolution plan for North American Light & Power. Later, the stock reacted over a point.

Mr. Locke has valued Union Electric at 15 times earnings, which appears somewhat on the high side despite the excellent caliber of the issue. The stocks of the 10 largest utility companies are currently selling at only a little over 14 times earnings, and unseasoned issues necessarily sell somewhat lower. It might be suggested that a multiplier of 12 would be somewhat safer under present market conditions, although the valuation would be affected by the proportion of earnings paid out in dividends. In this connection Goodbody & Company estimates that Union Electric may continue to pay out $3 in dividends, or 85 per cent of earnings. A more conservative figure on a 70 per cent distribution would approximate $2.50. Reducing the valuation about one-fifth would lower the break-up value for North American from $35.50 to $32.14.

IN the portfolio appraisal it has been assumed that sale of North American Light & Power's holdings in Northern Natural Gas would provide sufficient funds to pay off Light & Power's preferred stock at par and arrears; and sufficient Illinois Power common has been subtracted from the holdings of that issue to retire Light & Power common under the plan.

While North American has not announced any definite schedule for disposing of miscellaneous holdings, Mr. Locke estimates that if system holdings are reduced to five items—Union Electric, Kansas Power & Light, Missouri Power & Light, West Kentucky Coal, and Central Terminal—the present estimated liquidating value would be reduced from $35.50 to $23.72 (through distribution of cash and securities totaling $11.78). On this basis the present cost around 26 would be marked down to $14.22, and the remaining holdings would have a break-up value of $23.72 a share (or $20.36 if Union Electric is

valued at 12 times earnings). The dividend income from the five stocks is estimated at $1.41 per share of North American (out of earnings equivalent to $1.90 per share).

In valuing the Kansas and Missouri equities, the Goodbody study used multiples of 10 times earnings, which seems reasonable. The valuations of West Kentucky Coal Company and of the miscellaneous assets ($25,000,000 altogether) appear to be rather generous.

IN analyzing *Cincinnati Gas & Electric,* Goodbody's study emphasizes the possibilities of favorable rate decisions. Since the memorandum was issued, the Ohio Public Utilities Commission has granted the company an interim gas rate increase based on a 6.5 per cent rate of return on the book value of the properties; this is expected to give the company about 30 cents a share more in earnings after tax adjustment. Based on precedents in the Cleveland Electric and Marietta cases Mr. Locke expects a readjustment in electric rates also; but, since hearings on the latter case only began October 14th, it may be some time before a final decision is reached. Present earnings ($1.98) provide a return of about 7 per cent on original cost, but plant has been written down about $30,000,000. Mr. Locke estimates that on a reproduction cost basis, plant value might be increased 40-50 per cent; and taking this factor into account, he thinks that with readjusted rates earnings might well approximate a range of $2.75 to $3. On the basis of such estimated earnings Cincinnati would currently (at 27) be selling at about 9-10 times earnings.

The study also points out that dividends have been paid on the common stock without interruption for ninety-four years.

THE analysis of *South Carolina Electric & Gas* was prepared before the recent announcement that the company has agreed to purchase South Carolina Power from Commonwealth & Southern. The study is summarized as follows:

> This company's earnings show wide fluctuations because of variations in water conditions for hydro plants, and burdensome power contracts. Recent announcement of merger negotiations with South Carolina Power indicate a possible favorable solution. Although present earnings barely cover the dividend, the recent rate increases in the gas and bus divisions should improve earnings. While continuation of recent poor water conditions beyond 1947 might cause a reduction in the dividend, various measures being taken by the management indicate the possibility of a more favorable trend in earnings.

NORTH AMERICAN COMPANY PORTFOLIO

		Total Value Or Est.	*Per Share North American Common*
2,073,113 shs.	Potomac Elec. Power @ 16	$ 33,169,808	$ 3.87
1,886,000 shs.	Wisconsin Elec. Power @ 20	37,720,000	4.40
151,000 shs.	Pacific G. & E. @ 39¼	5,964,500	.70
2,695,000 shs.	Union Elec. of Mo. @ 53¼ ($3.55 earn. x 15)	144,182,500*	16.82
857,264 shs.	West Kentucky Coal Co.	15,000,000*	1.75
376,151 shs.	No. American Util. Sec. Co.	6,500,000*	.76
	Other misc. assets and cash	10,000,000*	1.17
	North American Light & Power		
1,050,000 shs.	Kansas P. & L.	$ 34,650,000*	$ 4.04
165,000 shs.	Missouri P. & L.	6,200,000*	.72
224,736 shs.	Illinois Power @ 28 (Mkt.)	6,292,608	.73
	Central Terminal, etc.	5,000,000*	.59
	Total	$304,679,416	$35.50

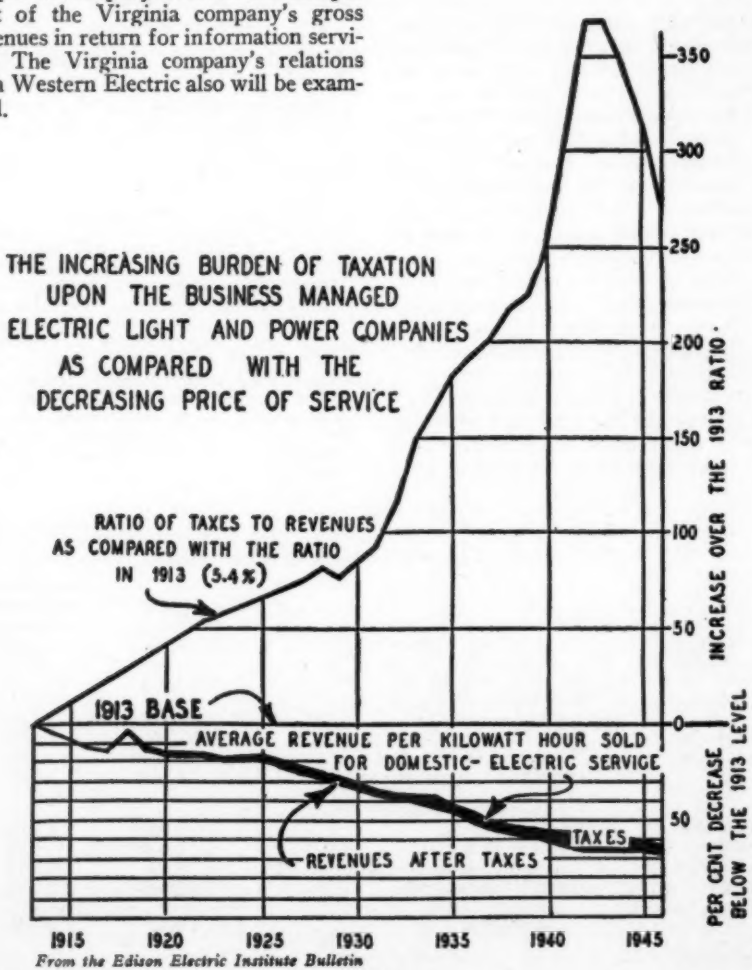
*Estimated.

Bell System Relations

RELATIONSHIP between the parent American Telephone and Telegraph Company and the Chesapeake & Potomac Telephone Company of Virginia was the subject of rate hearings before the Virginia Corporation Commission being followed with interest in financial circles

The commission will investigate, among other intercompany matters, C&P's license contract with AT&T under which the parent company receives one-half per cent of the Virginia company's gross revenues in return for information services. The Virginia company's relations with Western Electric also will be examined.

Coincidental with the recent announcement of the regular stockholders quarterly dividend, President Walter S. Gifford stated that at the going rate of return then prevailing it was reasonably expected that the usual $9 dividend for stockholders would be realized. However, Mr. Gifford did not definitely say (as previously reported in PUBLIC UTILITIES FORTNIGHTLY issue of November 6, 1947, page 651) that the $9 dividend would necessarily be earned this year.



From the Edison Electric Institute Bulletin

What Others Think

Business Confidence—Its Rise And Fall

A RECENT issue of the Cleveland Trust Company's *Business Bulletin* contains an analysis of the subject of business "confidence." According to an index which the Cleveland Trust Company has developed, confidence in the business outlook has been declining during the past year. The war's end produced a record high, but, since early 1946 the index has reflected, according to the account, "a lack of confidence in the continuation of prosperous business conditions." The index itself is explained in the following:

> The index is based on the difference between the yields of corporate bonds of the highest quality and those of . . . medium quality.

The theory upon which the index is based is a carefully developed one. It is known that investors, when they are optimistic about the business outlook, will regard junior bond issues as being nearly as safe as those that are fully secured by first mortgages on highly valuable property.

The prospects of weaker organizations are regarded as being as fair as those of stronger ones. The item goes on to say:

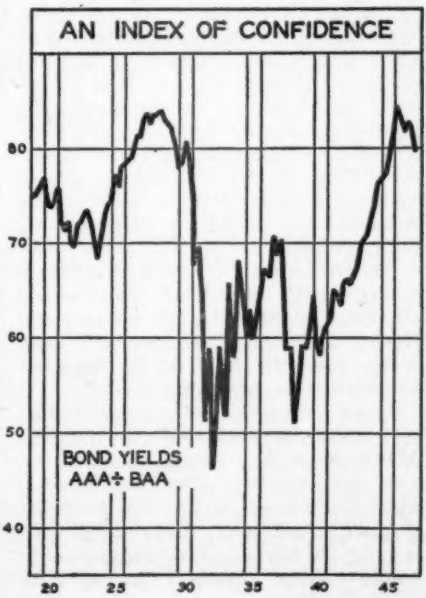
> Under such conditions of generally prevailing confidence in the prospects for profitable business, the investors bid up the prices of second-grade bonds until their yields are not much greater than those of the highest-grade bonds. On the other hand, when the prospects for business become discouraging, the investors seek safety rather than income and then the prices of the second-grade bonds fall far below those of the highest-grade issues, and as a result the yields of the less secure bonds become much larger than those of the well-secured ones.
>
> These recurring changes in the attitudes of investors make it possible to construct an index of business confidence by computing percentages that the yields of high-grade bonds are of those of second-grade bonds from month to month over a period of years.

Accompanying the article in the *Business Bulletin* is the curve reproduced below.

DATA for the curve were obtained "by finding for each month the percentages that the yields of 30 corporate bond issues having Moody ratings of Aaa were of the yields of 30 issues rated by Moody as being of Baa quality."

Confidence, or the lack of it, as indicated by the curve, depicts the post World War I depression, the era of prosperity preceding the great depression of the early Thirties, the slight recovery followed by the 1937-38 slump, and the more recent trends since the start of World War II. The discussion continues:

> When the enthusiastic confidence of the



New Era was at its height at the end of 1927, bond prices were high and yields were low. The yield of the highest-grade issues having Aaa ratings was almost 84 per cent as great as that of the second-grade issues rated Baa. Both classes of bonds had fallen in market price, but the second-grade issues had suffered declines in prices so much greater than those of the highest-grade bonds that their yields were over twice as great as those of the Aaa group.

The index reflects the strong confidence of business in the New Era period from 1923 through 1927, and a moderate decline before the climax of speculation in 1929. It indicates that the lowest level was reached in the summer of 1932 at the bottom of the depression. The recovery to the spring of 1937 was most uneven, and consisted of a long alternation of spurts and setbacks. The decline to the spring of 1938 was rapid and drastic. From the summer of 1940 to the end of 1945 the rise was vigorous and with few interruptions. The recent decline has not been severe but it does indicate that investors have doubts about the prospects for business in coming months.

One would ordinarily think of "confidence" as a highly elusive intangible that would defy isolation, let alone any attempt to chart its course. However, the effects produced by optimism and pessimism on the volume of business activity and on the investment of capital in various enterprises are not unfamiliar. It should be of interest, and perhaps informative as well, to compare this curve with other cyclical data covering the same period.

—F. T.

Profit Is Not without Honor

MANY will agree that no other single phase of our economic system is so little understood as the subject of profit and its necessary functions. The profit incentive has been a basic feature of the American free enterprise system since this country's inception. Yet, probably as much, if not more, misinformation than fact is being circulated on this matter. The term *profit* itself is not always understood by employees and the general public. Its functions are mysterious to many, including some "economists" and the profit motive—regarded as the system's Achille's Heel—is the focal point of attack by every left-of-center group.

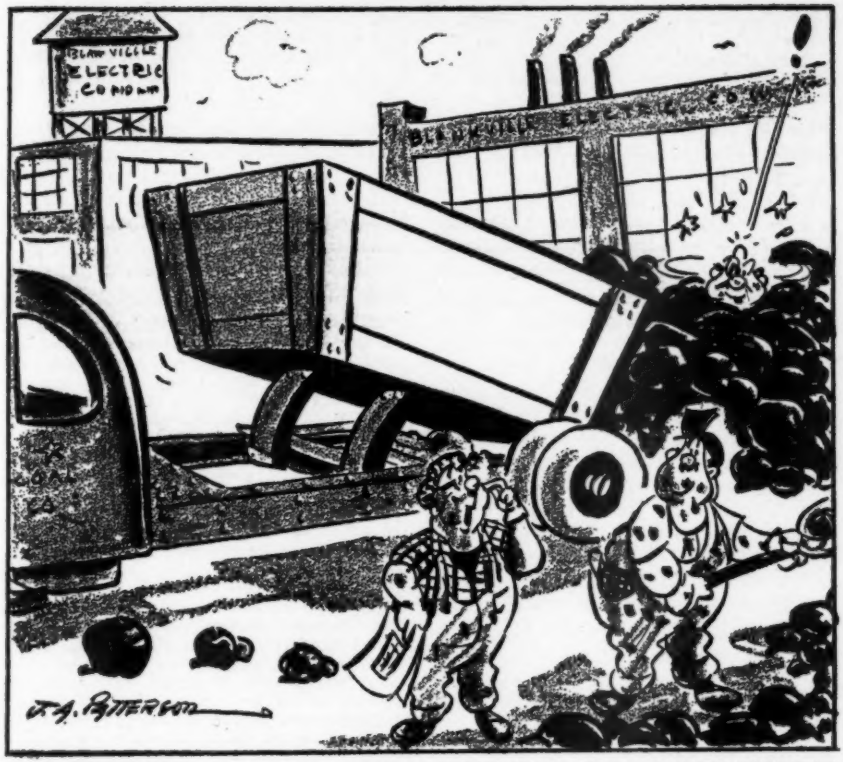
The truth about the function profit performs, on the other hand, while widely circulated in news letters, reports, and papers that cross management's desk, rarely gets into the front-line trenches where such ammunition is needed.

In an address before a recent conference under the auspices of the American Management Association, Clark King, vice president of Allegheny Ludlum Steel Corporation, expressed the belief that people are vitally interested in what is going on. Surveys show that the public wants to learn. How is it that half-truth and untruth apparently have a priority?

THE Allegheny Ludlum Corporation decided to launch a program to combat misinformation as an "integral part" of its operations, one that would continue through the years. King said, "Our first step was to lay out a program that would permit us to carry to the public facts about our company upon which they were uninformed or misinformed."

The corporation program embraced four points. The first two points were an expression of interest in the communities from which Allegheny drew its personnel and the corporation's readiness to pay good wages. The third point was the simple declaration: "We earn fair profits." This program was beamed to all personnel, and then to the public at the community level. In explanation of the crucial point of the program, King said:

> For point three, "We earn fair profits," we merely gave the facts in an understandable manner. We did not try to explain away our profits nor apologize for them. We told our public we were proud of our earnings. We went further to explain how we were using them to finance our $15,000,000 plant improvement program that would bring about added employment, easier work, and



"THAT'S FUNNY, I COULDA' SWORE THERE WAS TWO OF YOU WORKIN' HERE WHEN I DROVE UP"

more security to the people of our communities.

All mediums available were employed to continue the program after the town meetings. Each day since the inauguration of the program one or more communities have been given the necessary facts and figures to sustain the idea. In concluding the Allegheny Ludlum official noted that

> Aside from independent surveys, we have literally hundreds of personal expressions from our employees, shareholders, newspapers, and neighbors that make us sure that our program is paying off.

THE concept of profits and its function is a difficult one to put across to the lay public. Labor frequently expresses a desire to siphon off profits. Government uses it to convenience when passing on the blame for high prices. When the going is tough profits are cited as the source of all our troubles. Such was the opinion of David Lawrence, in a recent copy of the *United States News*, when he pointed out that government has referred to the "big profits" of industry in deliberate generalities, and never fails to spotlight dividend payments. From his own observations Lawrence feels that little is being done to offset these assaults. He offers the following:

> The importance of accumulating a surplus fund in corporate treasuries to tide over coming recessions, the insurance that a surplus gives to employment by laying aside sums to carry on when times get bad, the need for large amounts of working capital in the present inflationary period when in-

ventory costs are unprecedented and payrolls are abnormally high—these are heard of only in economic treatises. The people are not learning these things for the simple reason that businessmen are too preoccupied to tell them the facts of business life.

One of the acknowledged blots on the long-heralded bright postwar era has been the attack on profits. The prevailing attitude in some quarters seems to amount to a fear, usually based on the belief that profits hie off to some cavern where they hibernate for long periods. Like most other fears, this one also may be ascribed to ignorance. In this connection, Frank M. Surface, executive assistant to the president of Standard Oil Company (New Jersey), makes a substantial contribution. His address, the "Penalties of Economic Ignorance," given before the 1946 conference of the New England Council, has since been published in an attractive pamphlet form. In his opening remarks he illustrates the popular misconception about the size of profits, by calling attention to a nation-wide survey conducted by Opinion Research. The poll sought answers to the following question:

> Just as a rough guess, what per cent profit would you say the average manufacturer makes in peacetime?

In answer to this query:

> Sixty-seven per cent of the employees interviewed had an opinion about company profits. Eleven per cent thought profits exceeded 50 per cent, another 14 per cent thought they were between 34 and 50 per cent. Of the total, 40 per cent thought profits were 25 per cent or more. And if we omit those who said they did not know we find that more than 60 per cent of those who had an opinion on this subject thought profits exceeded 25 per cent.
>
> In response to another question these same people thought that a fair profit would be about 10 per cent.

FROM data compiled by the National City Bank of New York on the financial operations of a large number of companies, it was shown that profits, when thought of as a per cent of sales value, actually ranged from 3 to 4 per cent during the years 1944-45. When considered as a percentage of investment or net worth, profit varied between 6 and 9 per cent for the years 1936 to 1945, with the exception of 1938 when it was much lower. The figures used cover 1,152 trading and manufacturing corporations in the former, and 2,806 leading corporations in the latter example.

A statement appearing recently in the *New England Letter* of the First National Bank of Boston takes up the fair profit idea. In further developing it, it commented:

> The issue of profits goes beyond that of a fair return on capital investment and involves in its scope the healthy functioning of our economy, upon which steady employment and our high living standards depend. The perpetuation of our economic system is dependent upon a constant flow of fresh capital, the chief source of which is the surplus earnings ploughed back into business for replacements and the purchase of new tools and equipment. This is the "seed money" that is largely the basis of our progress. Each factory worker in the United States has, on the average, the use of plant equipment that cost more than $6,000. These facilities furnished by management are, in reality, mechanical slaves that have multiplied manyfold the productive efforts of the workers. Without modern equipment, paid for largely out of profits, the American people would be working about ninety-six hours a week instead of around forty, while their living standards would be at a subsistence level. So, in consequence of these facilities, we have about fifty-six hours a week more time at our disposal than would be the case if we lived under primitive non-technological conditions, while our living standards are many times higher.

The letter goes on to say that what may be considered a fair profit in one industry may not be fair in another—due to variation in the amount of risk in different enterprises.

In continuing, it claims that

> The amount of profits earned by different lines of business is determined by economic forces and not by "conspiracy" as is held in some quarters. If profits in any given industry are large, new firms enter the field, and competition drives the rate of return down to a reasonable basis. On the other hand, if profits are too small, firms fail or capital is withdrawn until, in the course of time, the returns to the industry are more in line with those in other fields, with due allowance for variation in risks.

WHAT OTHERS THINK

IT is the consuming pubic that determines what fair profits are in various lines of industry, by the choices made at the markets. An additional fact is that a substantial part of profit is used to keep the economy in good running order, which means more modern equipment and facilities.

The United States Treasury reports for eighteen years, ending with 1942, place the average net return on capital investment for all business enterprise at around 3 per cent, or just slightly above the current average return on government bonds, according to the same source.

In view of the above, the oft-quoted "production for use and not for profit" loses its grip on the imagination. The *New England Letter* concludes with the following:

> The prospect for profits is the mainspring of our economic activity. Under the driving force of this incentive, the United States has enjoyed an amazing and unparalleled progress. All classes have shared in this prosperity. For the past three decades or more, the gain in real wages of the workers has corresponded very closely with the increased productivity. Under our system this must be so in order that the mass output of our factories may be absorbed by the consumers in the market places. As a matter of fact, the amount paid out in employee compensation in the aggregate last year was about twenty-two times as much as was paid to stockholders.

It likens any attack on the American profit system to an attempt to "kill the goose that is laying golden eggs."

Returning to Frank M. Surface's address on the "Penalties of Economic Ignorance," the question was asked "Does your company make a practice of giving you information about profits?"

Analysis of answers follows:

> Twenty-one per cent said YES, but 79 per cent said NO. One out of five is not a very good showing.
>
> Furthermore, because of the kind of propaganda to which they have been subjected many employees are skeptical of the figures presented to them. One often hears it said that the figures are doctored, that there are hidden profits, that companies keep two sets of books, etc. Care must be taken to establish the authenticity of the figures presented. The fact that they are certified to by outside public accountants, that they are the same figures as given to the U. S. Treasury for income tax purposes or to the Securities and Exchange Commission, will go a long way towards dispelling such doubts.

RAILROADS have been publicizing the distribution made of their earnings and the percentage of their profit. Both the Railroad Association and the individual companies have been doing this job through car ads in the commuter coaches and via circular letters to personnel.

The Pennsylvania Railroad recently issued one of these circulars, entitled "What the Employers Got Out of Earnings As Compared with Other Railroad Payments." It calls attention to the fact that

> . . . It takes an investment of about $20,000, for each employee, to make it possible for this railroad to exist and for each of us to have a job.

Out of the charges for its services must come sufficient revenue to cover all of its expenses. And it hastens to add:

> However, because it is generally known that the stockholders of a railroad are its owners, many persons jump to the conclusion that the stockholders get a big part of what the railroad earns from rendering service. Even some railroad employees believe that the stockholders get the largest share of the earnings—that what is paid to the stockholders in dividends is more than is paid to the employees in wages.
>
> Nothing could be farther from the facts. Dividends are usually the smallest item of payment. Wages are the largest and on the Pennsylvania Railroad require about 55 cents out of every dollar taken in. Moreover, wages come ahead of everything else. They must be paid even before taxes are paid to the government, before fuel and material bills are met, and before interest is paid the bondholders for the money they have lent the railroad.

The leaflet assures the reader that dividends are paid last, only after wages, fuel and supply bills, taxes, bond interest, rentals, and all other expenses are paid. It concludes with the following:

> It may be of interest to our more than 150,000 employees to know that, in the eleven years covered by the chart, (1936-1946), the total payments made by the Pennsylvania Railroad for the benefit of its employees—

wages, combined with the other benefits shown just above them on the chart—were 14 times the total dividend payments to stockholders.

It may also be of interest to know that, in 1946, wages and the other employee benefits, combined, were over 6½ times greater than the taxes paid for the support of government, interest to bondholders, and dividends to stockholders, all put together.

The chart referred to is spread over both inner pages and graphically illustrates the payments for employees as compared with payments to stockholders, bondholders, and taxes paid in support of government.

ANOTHER booklet, entitled "Who Gets What?" has been issued by the American Iron and Steel Institute. According to this source, it takes an average investment of approximately $6,000 for each job in the industry.

To some pertinent questions it supplies the following answers on the rate of steel company profits:

From 1939 through 1946 profits averaged 4.3 cents for each dollar of sales, a profit of about two-tenths of one cent per pound of finished steel produced.

In answer to the question: "Are stockholders always sure of a dividend payment?"

No indeed. When business is poor, stockholders often get nothing.

In response to a question concerning stockholders absorbing all steel industry's profits, it replies:

They get only a part of them. The average stockholder in 1946 got only 3 cents of the sales dollar.

And re: "What happens to that part of the profits the stockholders don't get?"

This money goes for new tools, equipment, repairs, and plants. It provides a reserve to keep the business going in hard times. It protects old jobs and creates new ones.

SPECIFIC information is presented for the year 1946. After paying all costs except salaries and wages 88 per cent of the remainder went to employees, 6½ per cent was paid to stockholders in the form of dividends, and 5½ per cent was set aside for reserves. And it concludes with another query:

Are the stockholders the only ones to benefit when the steel industry is making a profit?

By no means. Employees benefit also because employment and payrolls are most satisfactory when production and profits are up. Moreover, if the industry lost money for a long period, investors would avoid it. There would be no capital for repairs or expansion. Everyone would suffer.

The brief form and simple language will aid this information in dispelling any fears that may be held by people who regard the profit-making or distribution function of "big industry" with distrust.

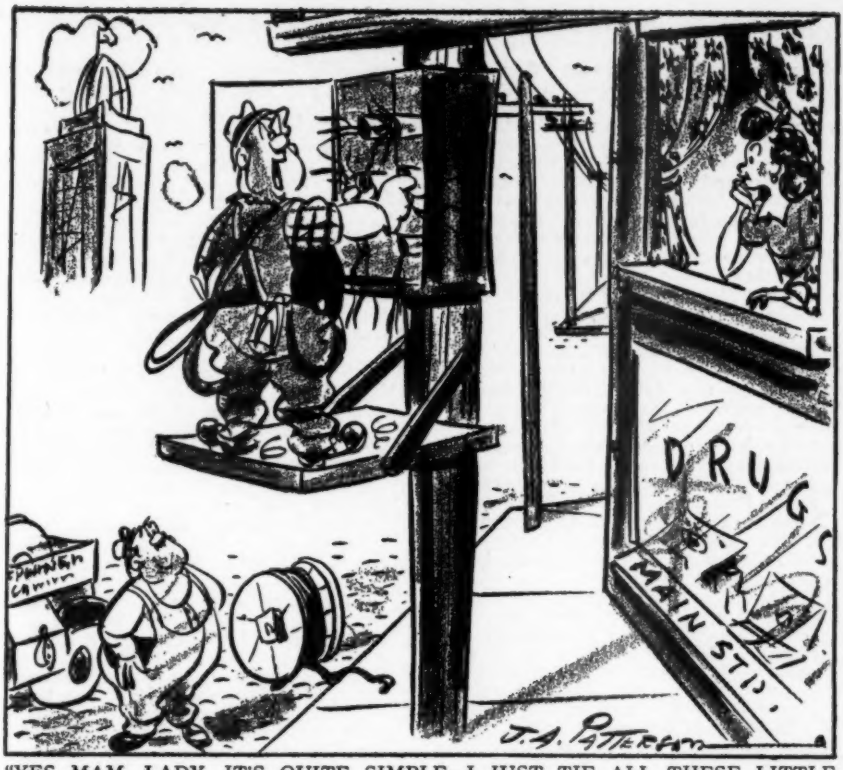
—F. T.

Shortage of Technically Trained Man Power To Continue into 1949 Predicted

THERE is a shortage of technically trained men these days, and the competition for these men is keener than ever, says H. N. Muller, manager of Westinghouse Electric Corporation's educational department. According to Muller's predictions:

This latest man-power shortage will last well into 1949 or 1950. It stems directly from industrial expansion, coupled with the relatively few engineers and scientists graduated from colleges during the war. Westinghouse alone is now recruiting from the colleges over 100 more men each year than during prewar years.

A Westinghouse graduate student course was set up many years ago which aids the young engineering aspirant to find out which branch—sales, design, or manufacturing—he is best suited for. Every graduate student at Westinghouse gets a basic course that consists of orientation, production, test and product con-



"YES MAM, LADY, IT'S QUITE SIMPLE—I JUST TIE ALL THESE LITTLE DOO-DADS TOGETHER AND EVERYTHING WORKS PERFECTLY!"

ference assignments. After completion of basic the men are assigned to their branch where they receive specialized training.

The educational program is outlined as follows:

> For eight weeks or more the student on the graduate course studies manufacturing problems in connection with some dozen of the most important Westinghouse products, such as motors and generators, switchgear, turbines, and transformers.
>
> The study of products continues in a full-time "engineering school" for eight more weeks. This rounds out the preliminary schooling of all students who will go into the technical departments of the company.

CERTAIN others may be selected by competitive examination to go on to a third course of instruction in mechanical design school. This third phase, for those selected, continues for thirteen weeks full time devoted to the study of fundamental, mechanical engineering subjects.

Through periodical conferences with officials of the graduate training department, the students are classified for particular engineering activities. Finally, after a varied experience, the young engineer is in a position to be transferred to a regular job. According to the Westinghouse statement many of the company's top executives are products of graduate student training. Engineering colleges report a 100 per cent increase in the number of companies now interviewing their graduates in comparison to prewar years.

—F. T.

Notes on Recent Publications

A Capitalist Asks for Reforms. "People must live and work together—or forfeit freedom." A recent book recommending a business philosophy of "total service to the community," by Robert Wood Johnson. It is a 271-page discussion of labor-management relations, and the responsibility of management. Considerable attention is given to an information program which business must launch to reinstate private enterprise in the public esteem after years of antibusiness education.

It is a plea for small business, for decentralization needed to meet the public at the community level, and the creation of a new craftsmanship. Johnson believes these are essential to achieve the broad objectives of business, to rebuild the dignity of labor, promote teamwork, and produce more for a higher American standard of living. The author backs a long-range business viewpoint beneficial to the community, as opposed to the nearest short cut to immediate profit. Because he feels that business must pay either directly or indirectly through government subsidies supported by taxation, he favors an intentional and realistic investment in America's future.

Johnson outlines the effort that must be expended by business to avoid the doom certain pessimists have predicted for our economy. He doesn't bar the gate to some public ownership, but prefers that enterprises be privately owned, business-managed, and, if technology will permit, small in size.

The book contains many startling suggestions and some readers may need reassurance that the author is R. W. Johnson, chairman of the board of Johnson & Johnson, who served during the war as a Brigadier General in Army Ordnance, as vice chairman of the War Production Board, and as chairman of the Smaller War Plants Corporation. OR FORFEIT FREEDOM. By Robert W. Johnson. Doubleday & Company, Inc., New York, N. Y. 1947.

The South, 1947 Edition. A statistical report listing industrial and commercial facts and figures on the states below the Mason-Dixon line. Economic recovery of the South and its increasing importance in the national industrial picture. Southern growth has been widely distributed among all the producing groups. Food processing continues to lead, followed by the manufacture of textiles and chemicals. Substantial gains also are shown in transportation and power facilities. The account accompanying the tables and charts attributes the South's resiliency in recovery from the depression and wartime restrictions to the tempering received as a by-product of a war that closely approached annihilation. Its experience has enabled this region of promise "to weather economic storms and squalls more effectively than might otherwise have been the case."

The South has been successful in attracting capital which has resulted in the migration of industry to that section of the United States. The accretion of local venture capital has been stimulated and has been invested in local projects. The South aspires to the position as "cornerstone of national progress." THE BLUE BOOK OF SOUTHERN PROGRESS, 1947, 188 pages, 45 photographs. Price $2. Published annually by Manufacturers Record Publishing Company, Baltimore 3, Maryland.

What Price Guaranteed Annual Wages? A discussion of the feasibility of annual wage agreements as a step toward financial security for members of the labor force, and the adjustments that would be necessary were business generally to guarantee annual wages. The author supplies the background for the proposed plans and cites the position enjoyed by the annual wage idea. Labor's and industry's opinions are split on the matter as a result of mixed experiences on the part of both.

This is a study of the current proposals that start with guaranteeing full-time payrolls as overhead, anticipating that the need to meet these conditions would very likely oblige industry to stabilize production and give greater security at desired higher levels of employment. The author considers those problems business would face in meeting the obligation, the impact on full employment, on competition, and on the business cycle. Some auxiliary measures that would be needed to brace the guaranteed wage system are discussed, notably the rôle that government would play. THE GUARANTEE OF ANNUAL WAGES. By A. D. H. Kaplan. Price $3.50. Published by The Brookings Institution, Washington 6, D. C. 1947.

Take It from the Clothing Industry! Union-management coöperation has outgrown the fearful and lip-service stages in the clothing industry sector. Brushing aside certain objections of unions and employers are certain factors that start both groups down the road toward collaboration. The objections and the impelling forces are examined by the author. This is a study of the problems of harmonizing the traditionally exclusive functions of management's viewpoint with the usual union policies and views.

The aim of this study is to clarify the relationship of coöperation to the general pattern of collective bargaining. The clothing industry was chosen as the proper field for special study because its experiences

in union-managament coöperation have been wide enough to permit arriving at a significant conclusion. The treatment embraces wage, profit, price, employment, and welfare matters. Joint plans to curb cyclical phenomena, regulate trade practices, stimulate efficiency, promote sales, and eliminate conflict are analyzed. Some of the material has come directly or indirectly from officers of the two large clothing workers' unions, from trade associations and member firm executives, labor arbiters, and government agencies. UNION - MANAGEMENT COÖPERATION. By Kurt Braun. Price $3. Published by The Brookings Institution, Washington 6, D. C. 1947.

General Electric's War Effort. The story of G-E in the second World War and the manner in which it bent its efforts and resources to the common goal. Our men overseas and our industries at home needed the equipment that this and other organizations produced. G-E trebled its peacetime production figures. New plants were required, new techniques developed, and new tools and machines turned out. By nature of the business in which this company was engaged at the entrance of the United States into the war, a heavy responsibility was imposed upon it. G-E's wartime accomplishments represent the work of some 175,000 men and women in the program of production for victory. Over 50,000 G-E men and women served in the Armed Forces, and of this number 1,055 gave their lives in line of duty during the recent war. 272 pages and approximately 196 illustrations. MEN AND VOLTS AT WAR. By John Anderson Miller. Price $3.75. Whittlesey House, McGraw-Hill Book Company, Inc., N. Y. 1947.

Short-term Caution, Long-term Optimism Advised. Of outstanding concern to those in the utility industry, as well as those in other fields of industry or commerce, are the predictions and the advice for the immediate and near future contained in the 1946-1947 annual report of the American Management Association. The report states that management believes the next ten years or more will be characterized by high production levels. It also predicts an intensified price competition resulting from the introduction of new materials and new methods. Complicating the picture, to some extent, is the "potential instability reflecting international and national fretfulness." The report states that executive opinion holds that readjustment from inflation "might be painful, but will probably be short." The report reflects opinions voiced at eleven AMA national management conferences. It comments on activity in the personnel and industrial relations, production, marketing, finance, insurance, office administration, and packaging fields, in which the association is principally interested.

Publicly owned electric system statistics. A record of new rates, earnings, production, consumers, operating expenses, free services, taxes paid, and other data on municipal electric systems. Diesel, steam, and hydro plants and publicly owned distribution facilities independent of generating facilities are included in the scope of this volume. The statistics cover some 600 cities and towns from 2,500 in population, upward. Installations operating under competitive conditions are indicated. RESULTS OF PUBLICLY OWNED ELECTRIC SYSTEMS. Price $10 prepaid. 400 pages. Ninth edition. 1947. Published by Burns & McDonnell Engineering Co., 95th & Troost, Box 7088, Kansas City, Missouri.

Keeping Democracy Sold

"We deem it highly desirable that a comprehensive program of education in the ideals and practices of American democracy be launched. Americans tend to take their system of government for granted. We think of it as we would a familiar landmark. It was there yesterday; it is here today; it will be there tomorrow. But that is not the history of the struggle for human freedom. The price of liberty continues to be the eternal vigilance of those who enjoy it—especially in a world of rapidly changing values. We must not allow our hard-won freedom to slip from indifferent hands. Freedom is everybody's job."

—WINTHROP W. ALDRICH,
Chairman, American Heritage Foundation.

The March of Events

In General

Association Adopts Resolutions

THE National Reclamation Association ended its convention on October 31st with the election of Harry E. Polk of Williston, North Dakota, as its president for the coming year. Polk had been first vice president of the association. The convention adopted more than a score of resolutions bearing upon issues related to the reclamation program. By its action, the convention went on record as favoring:

1. State control over non-navigation uses of rivers for domestic, irrigation, municipal, stock watering, and industrial purposes.

2. State ownership of tidelands and the beds of navigable streams within their boundaries.

3. Appointment of a committee to study legislation to extend the time of repayment of water users under the Reclamation Act.

4. Passage of the Rockwell Bill, now in Congress, to establish a new formula for payment of principal and interest on reclamation project power unit costs.

5. Passage of another measure pending in Congress which would lift the 160-acre farm limitation on the Central Valley project in California, the valley gravity project in Texas, and the San Luis project in Colorado.

6. Passage of legislation assuring water user organizations on reclamation projects the right to acquire permanent water rights and control of their water distribution facilities.

7. Establishment of a long-range program of reclamation construction, with adequate yearly appropriations.

8. The lifting of limitations on the amount of reclamation funds which may be transferred from project accounts for use by the office of the chief engineer of the Reclamation Bureau.

9. Legislation to permit use of surplus water in War Department reservoirs for irrigation purposes in special instances without compliance with provisions of the Reclamation Act.

10. "Adequate" funds for the geological survey to conduct geologic, mineral, and water investigations, including stream gauging and underground water studies.

Ponders Power Sale

THE Federal Power Commission was recently reported studying the proposed sale of a transmission line from Markham's Ferry, Oklahoma, to Lake Catherine, Arkansas, and two substations for $3,800,000.

The companies involved filed a joint application that Arklahoma Corporation be permitted to make the purchase from Ark-La Electric Coöperative, Inc. Arklahoma in turn proposes to lease the facilities to the Arkansas Power & Light Company, Southwestern Gas & Electric Company, and Oklahoma Gas & Electric Company for thirty years.

Under the proposed agreement, Arklahoma would sell first mortgage bonds totaling $3,800,000.

Rental of the facilities would be $71,950 semiannually from 1948 to 1967 and $72,950 semiannually from 1968 to 1977, according to the proposed agreement.

The facilities were built by Ark-La at War Production Board direction for de-

livery of electric power to the Defense Plant Corporation's Jones Mills aluminum plant.

FPC Approves Rates

THE Federal Power Commission recently approved for a period of not more than two years beginning September 1, 1947, rates and charges for sales of electric power contained in agreements between Bonneville Power Administration and five companies operating in the Pacific Northwest. The agreements provide for sales of power to Portland General Electric Company, Puget Sound Power & Light Company, Pacific Power & Light, Washington Water Power, and Mountain States Power Company. The commission's order stated that the power supply in the Pacific Northwest is critical and may remain deficient for some time in the future and that the rates and charges as contained in the contracts will permit a higher utilization of Bonneville's facilities during the present shortage.

Bonneville, after fulfilling the requirements of its other customers during this period, will have available and has agreed to deliver to the five companies a total of 335,000 kilowatts of power at a load factor of not less than 60 per cent.

Judge Orders Hearing

UNITED States District Judge Paul Leahy set November 26th for a hearing to determine whether a second amended plan for dissolution of the Louisville Gas & Electric Company (Delaware) was fair and appropriate under the Public Utility Holding Company Act.

The Securities and Exchange Commission, which approved the plan, asked the court to order enforcement.

Arizona

Utility Sale Hearing

APPLICATION of the Southern California Utilities Company to sell its entire properties at Yuma and transfer its operating rights there to the Arizona Edison Company was the subject of a formal hearing held at Phoenix before the state corporation commission on October 30th. Purchase price is $850,000.

The Arizona Edison Company operates principally within the city of Yuma proper and the Southern California utility in the rural and suburban district surrounding Yuma and in a small portion of the city.

For years, the two companies, operating almost side by side, have argued over territorial privileges. Repeated opinions and orders of the commission have failed to settle their jurisdictional complaints, it was reported.

The companies contend acquisition of the Southern California utility's properties by Arizona Edison would end the controversy over operating rights and would eliminate "competitive conditions" arising as a result of their paralleling operation which, they claimed, would mean improved service and economies to Yuma area electric consumers.

Arkansas

Rules City Can Buy Light System

THE city of Marianna legally can buy the electric distribution system there from the Arkansas Power & Light Company and can finance the purchase by issuing bonds payable only out of the system's revenues, Chancellor A. L. Hutchins has ruled.

The recent decision was in a taxpayers' test suit to restrain the city council

from calling a special election to determine voters' wishes on the matter.

In a written opinion, Chancellor Hutchins said it was a well-established principle of law that an Arkansas municipality has only such powers as are expressly conferred upon it by the Constitution and the statutes of Arkansas.

He said "it must be conceded that a municipality in Arkansas has the express power to acquire an electric distribution system within the municipality."

Votes Utility Levy Increase

PASSING lightly over threats of the Arkansas Louisiana Gas Company's attorney, Lawrence B. Burrow, that utilities might retaliate against an "excessive" privilege tax, the Little Rock city council, sitting as a committee of the whole, voted following a public hearing on October 30th to fix taxes as follows:

Arkansas Power & Light Company, $80,000; Arkansas Louisiana Gas Company, $55,000; Southwestern Bell Telephone Company, $45,000; municipal waterworks, $35,000.

The recommended tax, approved by the seven aldermen present, was lower than that proposed by a special citizens' committee on taxation, which recommended a levy of 4 per cent on 1946 gross earnings as follows: Arkansas Power & Light, $100,000; Arkansas Louisiana Gas, $79,000; Southwestern Bell Telephone, $46,000; municipal waterworks, $33,000.

The aldermen decided to abandon the plan of taxing the companies at a rate of 4 per cent of the previous year's gross earnings. City Attorney Gentry advised them that although the proposed ordinances would carry flat figures, without reference to a percentage, the utilities might seek court relief on the ground that the council had violated the statute prohibiting a gross earnings tax.

Mr. Burrow charged that the citizens' committee's "equalization" proceedings had resulted, "to be brutally frank, in the city going to the easiest place to get the money quickest."

He recalled that the voluntary 50 per cent increase in tax against all businesses, enacted for 1947, was accompanied by the council's pledge that an "equalization" would be made for 1948 and thereafter.

California

Service Changes Backed

THE Los Angeles city attorney's office, in response to a request, recently furnished the city council with a legal opinion holding that the council has no right to revoke franchises granted common carriers unless there is a clear failure upon the part of the carrier to carry out the terms of the franchise.

The opinion, written by Assistant City Attorney Roger Arnebergh, held that, in the case of the Los Angeles Transit Lines, recent changes in streetcar routings and substitution of trackless trolleys for rail service were in line with the recommendations of city traffic engineers and could not be held to be a violation of franchise obligations.

Colorado

Power Rates Cut

THE Arvada Electric Company recently announced it had approved a 12 per cent reduction in rates, effective November 1st.

At the same time, W. C. Sterne, presi-

dent and general manager of the company, asked the Arvada city council for a renewal of a 25-year franchise to cover a long-range finance program for expansion. Although the franchise granted in 1928 would be effective until 1952, the company's program to develop and repair lines in Arvada, Westminster, and surrounding areas necessitates a long-term loan, Sterne said.

Illinois

City Urged to Operate Plant

PROPONENTS of government ownership of utilities appeared before a Chicago city council subcommittee last month to recommend that the city purchase and operate Commonwealth Edison Company's properties. They asserted at the public hearing on renewal of the company's franchise that Chicago consumers of electricity would save up to $50,000,000 a year if the power plants were municipally owned.

The committee took under advisement the question of whether to negotiate a new franchise with Edison, or to acquire the facilities either through negotiated purchase or condemnation. Alderman Wagner, chairman of the utilities subcommittee, said it would be "some time" before the committee is ready to make its recommendation to the council.

Attorney Irving Flamm, who told the committee he was representing the Public Ownership League of America as a "labor of love," said elimination of Edison's net earnings would have cut Chicago electricity bills nearly 16 per cent last year. He listed the taxes paid by Edison and its administration and litigation costs as other factors tending to boost rates. These might be eliminated under municipal ownership.

After Flamm's testimony, Attorney John Reid Turney, retained by the city to aid in the franchise negotiations, presented a set of statistics comparing Commonwealth Edison's efficiency of operation with that of municipal plants. Turney asserted the kilowatt-hour output per production employee at the Edison Company was about twice as much as at the municipal plants in Cleveland and other major public ownership cities.

Indiana

Commission Attacks Fares

THE state public service commission last month asked the Hancock Circuit Court for an injunction which would compel Indianapolis Railways to abide by a commission order of July 1st which set transit fares in Indianapolis at three tokens for 25 cents, a 10-cent cash fare, free transfers, and ordered the utility to prepare plans for a 5-cent school fare.

The commission's request was made in an answer to a transit firm complaint which appealed all provisions of the July 1st order, and was made through counsel for the commission, the state attorney general. The case originally was in Marion Circuit Court, but has been venued to Hancock Circuit Court.

Iowa

Power Firm Offered for Sale

THE city of Council Bluffs was offered a conditional opportunity recently to buy for $3,550,000 the Western Iowa Power Company. The conditions, as laid down by Omaha (Nebraska) Electric Committee, Inc., were:

1. That the Council Bluffs mayor and city council call a special election not later than January 15th on renewing for twenty-five years the franchise under which Western Iowa is operating. The utility would pay election costs.

2. That Western Iowa agrees to have the utility's power contract extended for ten years.

The Omaha Electric Committee owns all the common stock of Western Iowa, which comprises principally the Council Bluffs distribution system. Western Iowa was formed because the Omaha Public Power District, when it took over the Nebraska Power Company last year, was not allowed by law to own or dispose of Iowa NPC properties.

Maine

Rationing Power

RATIONING of electric power was begun on October 28th by the Maine Public Service Company which serves 15,000 customers in northern Maine, because a month-long drought has cut the flow of the Aroostook river sharply.

President Lawrence Alline said the customers had been divided into three groups and that each group would be without power for one hour in every three. He said the hydroelectric power situation in this vicinity "is worse than it ever has been."

The rationing system was imposed beginning October 28th.

Mississippi

Rate Reduction Allowed

THE Federal Power Commission recently approved a rate schedule filed by United Gas Pipe Line Company and effecting a reduction in rates of approximately $249,000 to certain communities in Mississippi to become effective as of July 26, 1947. The communities receiving reductions and the amounts of the reductions estimated for the year ending July, 1948, are as follows: Alta Woods, $2,691; Clinton, $3,160; Jackson and environs, $241,807; Raymond, $1,347.

The commission also required that the company give notice to the commission and to the public pursuant to provisions of the Natural Gas Act of any changes in the proposed rates as provided for in a tax adjustment clause which was included in the rate schedule.

Missouri

Contract Renewal Voted

RENEWAL of the present contract between the Public Service Company and the AFL Amalgamated Association of Street, Electric Railway, and Motor Coach Employees, without any changes in wages or working conditions, was approved by overwhelming majorities of employees at meetings late last month.

Only 31 votes were cast against the proposal, with about 750 voting for it, Arthur E. East, president of Local 788, said.

The contract provides for a basic wage of $1.30 an hour and $60 a month pensions.

The 1947 agreement with the company was reached only after months of arbitration and a 2-week strike last summer. The union's executive board, by a vote of 18 to 2, had approved continuation of the agreement.

Nebraska

Power Heads Named

SELECTION of Harold Kramer as chairman of the board of managers of the Nebraska Public Power System was announced last month.

Kramer, secretary and general manager of the Loup River Public Power District, with headquarters at Columbus, succeeded George E. Johnson, who resigned recently from the board and as general manager of the Central Nebraska Public Power and Irrigation District (Tri-County).

A. C. Tilley, Hastings, who replaced Johnson as general manager of Tri-County, also became secretary of the board.

Gerald Gentleman, North Platte, secretary and general manager of the Platte Valley Public Power and Irrigation District, was named vice chairman of the board.

Gas Occupation Tax Bill Killed

THE 10 per cent gas occupation tax ordinance was defeated 6 to 1 at the Lincoln city council's meeting on October 27th. Rees Wilkinson, who introduced the bill, was the lone supporter.

Attorney Lloyd J. Marti, representing the gas company, referred to the ordinance as arbitrary, unreasonable, and confiscatory. Two years ago, he said, a special council committee went over the company's books and recommended a one per cent occupation tax which the past year amounted to approximately $23,000. His company, he said, does not care to be singled out, but if the council feels that the sellers of fuel are not paying a fair share, the company will be happy to have a committee gather all the facts.

The Wilkinson proposal would increase cost of the commodity to the small home owner, Marti said.

New York

Asks New Gas Rate Rise

THE Brooklyn Union Gas Company announced last month that it had petitioned the state public service commission for a temporary rate increase of $2,000,000 a year, which would be supplemental to an increase of $1,800,000, granted last July for one year until permanent rate schedules can be effected.

The new rate increase, company officials said, would be accomplished by raising each step of the rate schedule by 6 cents a thousand cubic feet of gas.

The reason advanced for the latest application was that the costs of production materials when the original petition was filed were based on unit costs in effect on February 13th. Since then the cost of coal has increased 15 per cent, heavy oil has risen 21 per cent, and the cost of refinery gas has gone up almost 10 per cent.

Coincidental with its announcement of an application for a rate increase, Brooklyn Union reported that for the nine months to September 30th operations resulted in a net loss of $393,051, contrasted with a net profit of $1,405,718 in the comparable period of 1946.

Power Rationing Threatened

THE state public service commission recently said that the shortage of electricity caused by the prolonged drought upstate had reached a point where drastic measures might be necessary. The commission announced that it was considering restrictions on the use of electricity if the necessary reduction could not be attained by voluntary methods.

"Parts of the state are already experiencing a shortage of electric power," the commission said, "and the situation may become acute unless the available energy now being produced is conserved."

Ohio

Akron Fights Gas Curb

PROTESTING an order of the state public utilities commission forbidding the installation of new gas-heating equipment, the city of Akron on October 30th asked the state supreme court to set aside the order.

Charles R. Iden, acting as special counsel for the city, and representing a group of heating contractors in the city, filed the action.

The city contended that the commission had no authority to order curtailment because in so doing it interfered with the city's contract with the East Ohio Gas Company.

Akron became the first city to take legal steps to oppose the order, which is statewide in application.

Tennessee

Moves to Revoke Permit

THE state railroad and public utilities commission recently ordered the Kentucky-Tennessee Natural Gas Corporation, New York, to show cause why its certificate of public convenience should not be revoked.

The certificate was granted the company in May, 1942, to allow it to construct and operate a natural gas pipe line from the Kentucky-Tennessee state line near Middlesboro, Kentucky, to Knoxville and Alcoa, Tennessee, and from the line to Kingsport, Tennessee, provided the company fulfilled requirements of the Federal Power Commission.

Commissioner John C. Hammer said the corporation had not met its requirements.

Washington

PUD's May Obtain Utility

GUY C. MYERS, the PUD's fiscal agent, last month announced plans for early action on the part of public utility districts to take over properties of the Puget Sound Power & Light Company, outside of the "Seattle competitive area." Individual contracts, he said, were being transmitted to commissioners of 13 PUD's, designating John Nuveen & Co. of Chicago to handle the bonds to be issued separately by the districts.

The general conditions, Myers said, are the same as those invalidated by a 5-to-4 decision of the state supreme court. Under the previous plan, the Skagit County PUD was to have issued $135,000,000 in bonds to take over the system as a whole.

When all districts have signed their bond contracts, Myers plans to propose to Frank McLaughlin, president of Puget Power, immediate steps for the transfer of the Puget properties, other than those in Seattle and vicinity, which Puget presumably will sell to Seattle.

PUD's Hit Plan

A RESOLUTION opposing the proposed merger of the Washington Water Power Company, Spokane, and the Pacific Power & Light Company, Portland, Oregon, has been adopted by the board of directors of the Washington Public Utility Commissioners' Association, it was announced recently.

The association, composed of public utility district commissioners, held that the proposed merger "is not in the public interest" and that it would create "an antipublic power holding company."

A. J. Zimmerman, director of the state department of public utilities, was scheduled to conduct a public hearing.

The Latest Utility Rulings

Telegraph Rate Concessions to Government Are Removed by Commission

THE Federal Communications Commission has concluded that there is no justification for a different rate for the United States government domestic telegraph messages than for commercial messages in corresponding service classifications. The differential is to be eliminated by raising government message rates to the level of commercial rates. (See, also, page 713.)

The commission, in *Re* Western Union Teleg. Co. (1946) 64 PUR NS 216, had refused to eliminate a rate differential in favor of the government in view of the provisions of the Post Roads Act of 1866 and congressional intent as indicated by its dealing with modification proposals. Congress this year repealed the Post Roads Act and gave the commission the same authority with respect to fixing rates on government telegrams that it has with respect to commercial messages.

The company denied that the proceeding to remove the differential involved a rate increase and claimed that it was simply a matter of eliminating unlawful discrimination. It contended that government telegraph usage does not differ significantly from that of large commercial users' groups and is, therefore, not entitled to special rates.

The government asserted that the company had failed to show that higher rates were just and reasonable. It argued that classification of government traffic as a separate category does not violate any prohibition against discrimination. It contended that the government traffic pattern departs significantly from that of the general public which warrants special treatment, not because it is the government, but to the same degree that any other customer with similar characteristics would be entitled to such treatment.

The commission thought that little weight should be given to the factor of burden of proof under the particular circumstances of the case. In the past, rates on government messages had not been fixed with regard to usual rate-fixing standards. Repeal of the Post Roads Act removed the grounds upon which the present rates were fixed.

As a source of message volume the government appeared to be comparable with such industries as amusement, meat packing, fuels, and rubber. The government could not be regarded as one customer or user. The commission said:

> In June, 1947, 889 Western Union main offices located throughout the United States in every state and the District of Columbia rendered 6,847 bills to United States government agencies. . . . The United States government is made up of many different kinds of telegraph users, with varying demands and needs for telegraph service. By way of illustration, the Weather Bureau's use of telegraph service can hardly be compared with that of the House of Representatives.

The commission recognized the materiality of cost factors in dealing with classification. In view, however, of the relatively small proportion of government traffic, and the fact that there did not appear to exist any characteristics which sufficiently indicated that it costs

less to handle such traffic, the commission did not think that action on the government rate differential should be deferred for the extended period of time that would be required to complete a proper cost study.

It thought that the differential should be removed by raising the government rates to the level of commercial rates.

The commission concurred in a proposal to eliminate priority accorded government telegraph communications, except where priority as to a particular message is specifically requested by the sender.

Western Union was required to assume the same liability in connection with the handling of government messages as is assumed with respect to other messages.

Commissioners Walker and Durr dissented, and Commissioner Apperson of the Virginia commission, who sat with the Federal commissioners at the hearing, said that he was in accord with the conclusions expressed in the dissenting opinion. The dissenting commissioners took the position that the company had the burden of proof to justify an increase in rates on government messages and that it had failed to present evidence to sustain that burden. *Re Western Union Telegraph Co. (Docket No. 8477).*

Advisory Resolution of Commission on Security Issue May Be Reviewed

In New York state a public utility corporation must obtain authorization and consent of the commission in order to issue stocks, bonds, and other evidences of indebtedness payable at periods of more than twelve months after date. If the corporation is a subsidiary of a registered holding company, it must also obtain authorization from the Securities and Exchange Commission. The Federal commission before acting must have reasonable assurance that the issue will have the approval of the state commission.

The state commission has devised a practice known as "advisory resolutions" for preliminary approval of a financial plan, which resolutions are regarded as morally binding on the commission. This is a device dictated by necessity, since under the competitive bidding requirements of the Federal commission the former practice of making a private arrangement for the sale of securities to underwriters or a syndicate is impossible. The final plan and final approval must await competitive bidding.

An "advisory resolution" authorizing a corporation to proceed to the competitive bidding on the basis of a proposed plan, subject to conditions imposed by the commission, is, according to a decision of Justice Bookstein of the New York Supreme Court, a final determination which may be judicially reviewed. This ruling was made in a proceeding by the Rochester Gas & Electric Corporation to overturn such a determination because the commission had imposed conditions unacceptable to the company.

Justice Bookstein reasoned that the company was entitled to a determination granting or denying authorization and approval. The commission had determined that it would approve only under the conditions imposed. The resolution, it was ruled, had every element of a final determination. The company had received a final determination denying the relief sought by it, whatever name may be given to such determination, be it "resolution, advisory resolution, or what not."

To hold otherwise would be sacrificing substance for form.

General Public Utilities Corporation, holder of all the common stock of Rochester Gas & Electric Corporation, was permitted to intervene in these proceedings. The court took the position that while it may be true that normally the stockholder of a corporation should not

be allowed to intervene, on the theory that corporate management would do all things necessary to protect stockholders' interests, the parent company was itself accountable to a large number of stockholders and it had a special interest in the litigation. *Rochester Gas & Electric Corp. v. Maltbie et al. (See Re Rochester Gas & E. Corp. (NY 1947) 68 PUR NS 406.)*

Continuance of Telephone Service by Stockholders' Organization Authorized

THE Wisconsin commission approved the dissolution of a telephone company but imposed the condition that the stockholders form a new legal entity responsible for the continuation of service.

The commission rejected a suggestion that the existing stockholders take over the business as a group of common owners, on the ground that such relationship would be inconsistent with the public interest. The commission stated this view:

> In other words, we do not think it proper for the ownership of the property of Nelson Telephone Company to be vested in a number of common owners who are not partners and whose individual responsibility for the continuance of service is nebulous, to say the least. Under such circumstances, the maxim that everybody's business is nobody's business would apply.

Re Nelson Teleph. Co. (2-U-2411).

Contract Permitting Service End on Notice to Customer Invalidated

A DISPUTE between a customer and a municipality over a threatened discontinuance of water service was resolved by the Wisconsin commission in favor of the customer. The customer, who resided on the outskirts of the city, had received service from the city for many years under a contract which permitted the city to discontinue merely upon giving notice of its intention to do so.

After receiving such a notice the subscriber appealed to the commission. The commission, pointing out that no court or commission precedent could be found on the matter, ruled:

> . . . we think that any limitation of the obligation of service of the utility as specified in a contract providing for that service, which (as in this case) purports to undertake service for an indefinite time and which after a dozen years or more may be terminated at the whim or caprice of the utility, constitutes an invalid limitation upon the obligation of service of such utility.

An objection to the ruling based on the fact that the subscriber resided outside the city limits and that the city's supply of surplus water was very low was overruled with this statement:

> Doubtless, any municipally owned water utility is under no obligation in the first instance to furnish service beyond the boundaries of the owner municipality unless it sees fit to do so. But having power to do so (as the city of Milwaukee has) and having done so, then, in our view, there is no distinction—so far as obligation of service is concerned—between customers inside the municipality and outside the municipality.

Re City of Milwaukee (2-U-2329).

Year-around Rates in Resort Area

THE need for relatively low telephone rates to attract year-around subscribers in a resort area was recognized by the Wisconsin commission in

a proceeding where a temporary increase in rates was authorized. The company serves a very different area from that of the average small telephone company. Each community is small and the number of telephones connected is below the most economical point with respect to operators' wages per station. The commission said:

> The rural area consists mostly of cut-over forests with scattered settlers on low-income farms.
>
> There are numerous streams and lakes, and many seasonal cottages have been built on their shores. In addition, there are six or more large private clubs or resorts located 6 to 16 miles from the nearest exchange. Seasonal subscribers originate considerable toll business, which varies widely from year to year. Present rates are high due to the nature of the territory served.

Rural residential and 4-party residential rates, the commission continued, should be just as low as possible to attract year-around subscribers, whose ability to pay is in sharp contrast with that of business and seasonal subscribers and the paying ability of private clubs and lodges. *Re Amberg Teleph. & Teleg. Co. (2-U-2395).*

Inadequate Service Basis for Certificate Award

A MOTOR carrier was awarded a certificate by the Colorado commission where available service in the area was inadequate. The commission pointed out that, even if existing service were adequate, a new service could be authorized if it would not impair the efficient public service already available.

The burden of proof in such proceedings, the commission ruled, is on the new carrier to prove the inadequacy of existing service, but it is on present carriers to show that their service would be impaired by establishment of an additional service. The commission based this ruling on the availability of knowledge of impairment and commented:

> . . . unless it is within the power of the applicant to prove the facts establishing the negative allegations relied upon (nonimpairment of efficient public service), it would appear, as a practical proposition, that protestant, where it has peculiar knowledge upon the question of the extent of the impairment—such knowledge not being shared by applicant—should be required to assume the burden of evidence upon that point.

The commission in granting the certificate pointed out that, where the inadequacy of existing service is established, no issue of impairment need be considered. *Re Motor Express Rentals Corp. (Application No. 8502-PP, Decision No. 28916).*

Price Not an Obstacle to Air Carrier Sale

THE Civil Aeronautics Board, in approving the application of an air carrier for authority to acquire the property and business of another carrier, decided that the price agreed on between the carriers was not of such an amount and character as to affect adversely the interests of the buyer, the seller, or the public.

The board conceded that as between the buyer and seller of the properties the purchase price might include intangibles representing an appraisement of future earning power, but added that it would not permit such intangibles to enter the investment of the purchasing carrier for rate-making purposes or otherwise to burden that carrier's rates with charges for the recoupment of the cost of these intangibles.

Chairman Landis, in a dissenting opinion, described the issue presented by the case as "more significant than any issue that has been presented to the board during my service with it." The chairman expressed the view that the approval of

the transfer made impossible the much-needed reordering of the air transportation map of the United States, which he felt could only be accomplished by voluntary consolidations, mergers, and route transfers, and also that the decision would be productive of serious and eventually disastrous inflation in values underlying air transportation. *Re Western-United Airlines (Docket No. 2839).*

Grade Crossing for Street Extension Approved

THE petition of a municipality for an order authorizing the establishment of a grade crossing for a street extension was approved by the Missouri commission. The commission found that the proposed street was a matter of great public convenience and necessity and that a grade separation would be too great an expense and would be unreasonable and impractical.

Objections by the railroad on the ground that the grade crossing would be unsafe and dangerous even with automatic flashing light protection were overruled by the commission after considering the probable highway traffic on the road, its controlled speed, the extent and character of railroad movements, and the sight distances at the crossing.

An alternate street plan proposed by a private company whose spur track would be crossed by the street was rejected by the commission as involving a substantial or major rerouting or relocation of the street, which was not within its authority.

The commission divided the cost of the crossing equally between the city and the railroad, with the railroad assuming the entire cost of maintenance. *St. Louis v. Missouri Pacific R. Co. et al. (Case No. 11057).*

Other Important Rulings

THE California commission authorized an interim increase in telephone toll rates in view of the financial emergency confronting a company because of increased expenses, the commission stating that prompt action should be taken to maintain the earnings at some semblance of reasonableness during the time necessary properly to develop a complete record and fix permanent rates. *Re Pacific Teleph. & Teleg. Co. (Application No. 28211, Decision No. 40655).*

The Indiana commission entered an amended order authorizing service to a housing project, omitting the discussion of the scope of the REMC Act and preëmption of territory. *Re Public Service Co. of Indiana, Inc. (No. 19520).*

Upon an application for approval of the disposition of amounts in Account 100.5 — Electric Plant Acquisition Adjustments, by monthly amortization charges to Account 505—Amortization of Electric Plant Acquisition Adjustments, the Federal Power Commission ruled that the monthly amortization should be accomplished through charges to Account 537—Miscellaneous Amortization, instead of to Account 505. *Re Georgia Power Co.*

A transportation company was authorized by the Missouri commission to substitute trolley bus lines for existing streetcar lines over intracity routes, after a finding had been made that the proposed substitution would be consistent with the public interest. *Re Kansas City Pub. Service Co. (Case No. 11137).*

An action by railroad stockholders to set aside an Interstate Commerce Commission order approving the merger of two railroads was dismissed by the United States District Court for the Eastern District of Virginia on the

ground that the commission order was based on substantial evidence, was just and reasonable, was within its powers, and, consequently, was binding on the court. *Schwabacher et al. v. United States et al. 72 F Supp 560.*

The Ohio commission has power, upon hearing, to require the operation of a caboose as a component part of a freight train if such equipment and operation are essential to the protection, welfare, and safety of railroad employees and the traveling public, according to a ruling of the state supreme court. *Akron & B. Belt R. Co. v. Public Utilities Commission, 74 NE2d 256.*

A railroad may enter into working arrangements and agreements with a motor transportation company or a common motor carrier, and under such an arrangement or agreement the railroad does not become a motor transportation company, nor does the contracting motor transportation company thereby lose its character as a common motor carrier, according to the Ohio Supreme Court. *Norwalk Truck Line Co. v. Public Utilities Commission, 74 NE2d 328.*

The Federal Circuit Court of Appeals held that the "bundle of rights" of prior preference stockholders of a public utility holding company going through reorganization includes accrued dividends from the date when the petition was filed to the date as of which assets of the corporation were valued and claims against it calculated, in view of the company's charter requiring claims of prior preference stockholders as to dividends to be completely satisfied to date of payment, before any attempt could be made to provide dividends for junior stockholders. *Re Portland Electric Power Co. 162 F2d 618.*

The Federal Power Commission held that a proposed field booster compressor station to be located adjacent to gas wells owned by a natural gas company, to be used in the gathering of natural gas, did not constitute facilities for which a certificate of public convenience and necessity is required under the provisions of § 7 of the Natural Gas Act, where the only physical connection between the company's main transmission pipe line and the gathering lines extending to its wells was at one point and all gas produced and gathered from the wells was delivered into the main transmission pipe line at that point. *Re Consolidated Gas Utilities Corp. (Docket No. G-883).*

The petition of a city to require a railroad to extend its spur track over the right of way of another railroad and connect with city harbor tracks was granted by the Wisconsin commission. The commission overruled all objections to jurisdiction and pointed out that both by statute and by precedent a crossing of two steam railroads is a matter within the jurisdiction of the state commission. *Re City of Milwaukee (2-R-1728).*

In considering the proper compensation to be allowed an air carrier for the transportation of mail, the Civil Aeronautics Board ruled that, although a carrier was entitled to a 10 per cent return on future business, a 7 per cent return was sufficient for past operations. The board explained the 3 per cent reduction as a reasonable adjustment to reflect the elimination of the risks of predicting future revenues and expenses. *Re Pan American Airways, Inc. (Docket No. 1706).*

The supreme court of Illinois reversed an order of the state commission denying a railroad's application for permission to close an agency station when the record indicated that the station was being operated at a substantial loss and that two other agencies located within a radius of 5 miles could render satisfactory service. *Illinois Central R. Co. et al. v. Illinois Commerce Commission, 74 NE2d 545.*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

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Points of Special Interest

Titles and Index

TITLES

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Case No. 4822, Order No. 43885
August 13, 1947

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APPEARANCES: Hall Hammond, Attorney General, and Richard W. Emory, Deputy Attorney General, for the state of Maryland; Philip H. Dorsey, Jr., People's Counsel; Bryan E. Harding, of Counsel, and Charles M. Dineen, Associate Counsel, for the United States of America; Alexander K. Hancock, representing County Commissioners of Montgomery County; Daniel T. Doherty, representing Olney-Norbeck Citizens Association of Montgomery County, and himself as an individual; Roscoe F. Walter, Rockville, in his own behalf as a telephone user; Clarence W. Miles, R. A. Van Orsdel, William G. Gassaway, and William B. Rafferty, of Counsel for The Chesapeake and Potomac Telephone Company of Baltimore City.

By the COMMISSION: This proceeding originated with an application filed on December 20, 1946, by The Chesapeake and Potomac Telephone Company of Baltimore City, hereinafter referred to as Company, requesting that the Commission authorize the establishment of higher rates, both temporary and permanent, for telephone service furnished by it throughout the state of Maryland.

The Company's petition set forth that, despite the fact that since February 1, 1936, at which time the rates of the Company previously in effect were substantially reduced by the Commission, the number of telephones in Maryland had more than doubled, annual gross operating revenues had increased approximately $19,000,000 and the Company's investment in plant and property had increased approximately $40,000,000, the annual net operating income of the Company had been reduced by a sum in excess of $1,000,000, due to the substantial increases in the Company's operating expenses during the past several years, and that the then current net operating income of the Company in relation to its net investment had reached a level constituting the lowest in its history.

The petition alleged that the Company was not only earning less than a reasonable return upon the value of its property used and useful in rendering intrastate service to the public, but that it was earning less than its minimum requirements to render adequate service. It was stated that, in view of these circumstances and the further fact that the Company would be required to expend approximately $46,000,000 for additions to plant and property during the ensuing two years in order to render adequate and efficient telephone service, an emergency existed which necessitated the Company seeking immediate relief through

the approval by the Commission of temporary rates, pending a full investigation by the Commission of the revenues, expenses, and earnings of the Company, which would necessarily require more than ninety days of elapsed time from the date of the filing of the application for the completion of the required investigation and hearings.

The application prayed that the Commission:

(1) authorize and empower the Company to make effective on or before February 1, 1947, a schedule of temporary tariffs or rates for the rendition of telephone service within the state of Maryland as set forth or described in Company Exhibit "A" filed therewith, such schedule of temporary tariffs or rates to remain in effect until the further order of the Commission but in no event for a period longer than twelve months from the effective date of the said schedule;

(2) enter into a full investigation of any and all such matters as may be relevant to a determination by the Commission, in accordance with the laws of the state of Maryland, of the permanent rates to be charged by the Company for the rendition of telephone service within the state of Maryland.

The immediate relief which the Company's application asked pending the completion of the full investigation required in order to enable the Commission to establish permanent rates was sought under the following provision of § 372 of Art 23 of the Annotated Code of Maryland:

"Whenever the Public Service Commission, upon petition of any public service corporation, is of the opinion and so finds, after an examination of the reports, annual or otherwise, filed with the Commission by such public service corporation, together with any other facts or information which the Commission may acquire or receive from an investigation of the books, records, or papers, or from an inspection of the property of such public service corporation, or upon evidence introduced by such public service corporation, that the operating income of such public service corporation, after reasonable deductions for depreciation and other proper and necessary reserves, is less than the amount required for a reasonable return upon the value of said public service corporation's property used and useful in rendering service to the public, and is of the opinion and so finds that a hearing to determine all of the issues involved in the final determination of the rates or service will require more than ninety days of elapsed time, the Commission shall have power, in case of such emergency, and it is hereby given authority, to enter a temporary order fixing a temporary schedule of rates, which order shall be forthwith binding upon said public service corporation and its customers; provided, however, that when the Commission orders an increase in the rates or charges of any public service corporation by means of such temporary order, it shall require such public service corporation to enter into bond in such amount and with such security as the Commission shall approve, payable to the state of Maryland and conditioned to insure prompt refund by such public service corporation to those entitled thereto, of all amounts which such public service corporation shall

collect or receive in excess of such rates and charges as may be finally fixed and determined by the Commission, and provided, further, however, that no such temporary order shall remain in force or effect for a longer period than nine months from its effective date, and a further period not to exceed three months in addition if so ordered by the Commission."

The hearing on the request for an emergency increase in rates was opened on January 21, 1947, and occupied three days.

The Commission found that:

(a) the operating income of the Company, after reasonable deductions for depreciation and other proper and necessary reserves, was less than the amount required for a reasonable return upon the value of its property.

(b) a hearing to determine all the issues involved in the final determination of the rates would require more than ninety days of elapsed time from the date of the filing of the application.

(c) pending the completion of an investigation and hearing to determine all the issues involved in the final determination of the rates, the temporary schedules of tariffs or rates filed with the petition would be just and reasonable tariffs or rates to be charged by the Company for telephone service furnished by it within the state of Maryland.

Accordingly, the Commission, by its Order No. 43288 entered on February 4, 1947, authorized the Company to put into effect the proposed schedules of temporary rates, to be effective with respect to exchange rates on successive billing dates beginning with February 11, 1947, and with respect to message toll service on March 6, 1947. The schedules which the Commission authorized to be made effective were designed to effect an increase in the gross revenues of the Company of $3,500,000 per annum.

The aforesaid order specified that the temporary rates should remain in effect until the establishment of permanent rates by the Commission but in no event for a longer period than nine months, unless such period should thereafter be extended for a further period not to exceed three months.

The collection of the temporary rates was conditioned upon the Company entering into bond in the principal amount of $2,700,000, to insure prompt refund to those entitled thereto of all amounts which the Company should collect in excess of such rates as might be finally fixed by the Commission, which bond was thereafter entered into and filed with the Commission.

By its aforesaid order of February 4th, the Commission set the proceeding for further hearing on March 18th, for the purpose of determination of the permanent rates to be charged but the date was subsequently postponed to April 8, 1947. Hearings were begun on that date and were concluded on June 13th, occupying eighteen days. Briefs were submitted on June 27th and oral argument had on June 30th. The stenographic minutes of the hearings consist of 2,182 pages and 84 exhibits were filed.

The state of Maryland, by Attorney General Hall Hammond and Deputy Attorney General Richard W. Emory, pointed out, in a petition to the Commission, that as a subscriber and ratepayer for telephone service it was a

party in interest and prayed that it be allowed to intervene and be made a party to the proceedings. The right to intervene was granted and, while the attorney general's office took no further direct part in the proceedings, upon the completion of the hearing it, jointly with people's counsel, filed requested findings and conclusions, to which reference is hereinafter made.

The United States of America, through its Treasury Department, sought and obtained permission to intervene and its counsel actively participated in the proceeding.

Appearance was entered by counsel for the county commissioners of Montgomery county and the Olney-Norbeck Citizens Association of Montgomery county was also represented. In addition, several individuals appeared in their own behalf, as telephone users. One of these, Mr. Roscoe F. Walter, of Rockville, contended that the Commission was without jurisdiction to grant the relief sought by the Company, for the reason that its instruments and other facilities are being used in interstate service and that they, therefore, and all rates for service, are subject only to the jurisdiction of the Federal Communications Commission. When the Commission assumed jurisdiction, and authorized the establishment of temporary increased rates, Mr. Walter instituted a proceeding in the district court of the United States for the district of Maryland against the Commission, the Company and others, seeking to have the action of the Commission set aside and its order vacated. The case was heard on a motion to dismiss by a 3-judge statutory court which, in an opinion by Circuit Judge Morris A. Soper, sustained the jurisdiction of the Commission and dismissed the complaint.

Subsequent to the presentation of the Company's case in brief, there were several occurrences which somewhat changed the situation and necessitated the filing of revised exhibits, to reflect the changes resulting from these happenings. In brief, these developments were:

(1) A prolonged interruption of telephone service, due to labor difficulties.

(2) Substantially higher wage rates resulting from negotiations between the Company and representatives of its employees.

(3) Revision of the method of determining the separation of revenues, expenses, and plant investment between intrastate and interstate service, resulting in a reduction in the portion of cost of plant and certain expense items allocated to intrastate service.

The net effect of these several items, the Company contends, is to increase its need for additional relief in the matter of rates, over and above the $3,500,000 granted by the Commission's order of February 4th, from $1,800,000 to about $2,800,000. That is to say, the Company now seeks to have the Commission make permanent the temporary increases in rates heretofore granted by it and estimated to yield $3,500,000 per annum, and to authorize increases in the schedules to produce an additional amount of $2,800,000 per annum. If the relief sought is granted in full, it will mean that the former rates must be increased so as to produce, in the aggregate, $6,300,000 more gross revenue per year. As Federal income taxes of 38 per cent, Maryland gross re-

ceipts tax of 2 per cent and payments under the contract with American Telephone & Telegraph Company of 1½ per cent of gross revenues, when properly computed, aggregate 40.17 per cent of gross income, the net income will be increased $3,769,290 per annum if the Commission allows in full the relief which the Company seeks.

Most of the controverted matters which it is necessary for the Commission to decide are covered in the aforesaid suggested findings and conclusions submitted by the attorney general, in which people's counsel joined. These are:

(1) Determination of the fair value of the property of the Company used or useful in the public service, which requires that the Commission pass upon the following subsidiary issues:

(a) Whether property under construction should be included in the rate base.

(b) Whether property held for future use should be included.

(c) The amount of allowance for cash working capital.

(2) The rate of return to be allowed.

(3) The adjustment of operating expenses to eliminate alleged excessive maintenance expense in 1946 due to alleged deferred maintenance during the war period.

In addition to these items, people's counsel also takes exception to the allowance of what he terms the amortization of deficiencies in the pension fund reserve which have occurred subsequent to January 1, 1937, charged to Account 672 and amounting to $338,430[1] for the calendar year 1946, and a portion of pension accruals amounting to $102,044, charged during the fiscal year beginning April 1, 1946, to Account 323.

In figures submitted by people's counsel it was further contended that there should be eliminated from operating expenses $46,000 (for the aforesaid period) which he termed excessive cost of the license contract.

The Company's affairs have been the subject of plenary proceedings before this Commission on several occasions for the purpose of fixing rates. Two of such cases reached the courts, Chesapeake & P. Teleph. Co. v. Whitman, PUR1925D 407, 3 F2d 938; Chesapeake & P. Teleph. Co. v. West (1934) 3 PUR NS 241, 7 F Supp 214, and West v. Chesapeake & P. Teleph. Co. (1935) 295 US 662, 79 L ed 1640, 8 PUR NS 433, 55 S Ct 894. Much of the history of the Company, including its relations with the American Telephone and Telegraph Company, hereinafter referred to as American, is contained in the opinions in those cases.

The Company has a monopoly (a comparatively few rural telephones excepted) of telephone service in Maryland. It has no securities outstanding except $60,000,000 par value of common stock all of which was issued at par to and is still owned by American. As the Company needs capital for improvements and expansion it is furnished by American in the form of temporary loans and from time to time the loans, or a part of them, are liquidated or paid by the issuance at par of common stock to American. The

[1] This figure (which will hereafter be used) may vary slightly for the fiscal year beginning April 1, 1946; there is no evidence in the case of the exact amount for said period.

familiar license contract is still in force and under it the Company pays to American 1½ per cent of its gross annual revenues. The Company is not only a wholly owned subsidiary of American but is an integral part of the nationwide system controlled by American.

In this proceeding, as in others of the same Company, it has been necessary to apportion or separate the value of its property, income, and expenses between intrastate and interstate business or operations as this Commission only has jurisdiction of its intrastate business. In making such separation the Company has followed the method and procedures recommended by a certain committee which grew out of a proceeding instituted before the Federal Communications Commission. Although the latter has not approved said recommendations, we understand said procedure has been followed in recent years in telephone rate cases and no objection thereto has been made in this case. Perhaps it should be explained that some of the exhibits contain the expression "Total Company" which is intended to indicate that it embraces both interstate and intrastate. It also should be mentioned that the separation procedure does not use the same percentage figure for all items which have to be separated.

Rate Base

The Company claims a rate base of $76,000,000 which is the average of the rate base claimed by the Company based on original cost less depreciation reserve plus an allowance for working capital ($63,487,491) and a rate base measured by current cost less depreciation plus an allowance for working capital ($88,515,632). The Company's figures in support of the above-claimed rate base are as follows:

		Intrastate
Original Cost		
Telephone plant, March 31, 1947.		$83,069,547
Depreciation reserve at 29.3% ..		24,971,617
		$58,097,930
Property under construction		1,993,058
Property held for future use		164,756
Working Capital		
1/12 of expenses, excluding depreciation and taxes		1,728,412
Material and supplies, Feb. 28, 1947		1,503,335
Total		$63,487,491
Current Cost		
Telephone plant, Dec. 31, 1946	$131,139,022	
Book net additions to plant, January to March, 1947 ..	3,340,178	
	$134,479,200	$120,627,842
Depreciation deduction at 29.3%		35,343,957
Plant, depreciated, March 31, 1947		$85,283,885
Working Capital		
1/12 of expenses, excluding depreciation and taxes		1,728,412
Material and supplies, Feb. 28, 1947		1,503,335
Total		$88,515,632

People's counsel and the state of Maryland, as a ratepayer, claim the rate base should be $59,601,265, which consists of original cost less depreciation reserve, plus an allowance for working capital. The difference, $3,886,226, between the original cost rate base of the Company and that of people's counsel and the state of Maryland is made up of three items, viz. (1) $1,993,058, telephone plant under construction, (2) $164,756, property held for future use and (3) $1,728,412 *cash* working capital. Included in all the rate bases above mentioned is working capital of $1,503,335 for materials and supplies.

The United States has not suggested the *amount* of the rate base but it contends that the rate base should be the original cost less the depreciation reserve, plus material and supplies in the sum of $1,046,969. All the parties concede that the proper allowance for materials and supplies is $1,503,335. However, the United States contends that as telephone bills are rendered and to a large extent paid in advance of rendition of most of the service, there is a *negative* or *red* cash working capital requirement of $456,366 which is available for maintaining materials and supplies inventory and, therefore, in determining working capital, the allowance for materials and supplies should be reduced by that amount.

Thus the major dispute between the Company and the other parties in this proceeding is with respect to the *method* of determining the value of the property which is included in the rate base. The other parties contend that in view of the recent decisions of the Supreme Court of the United States, particularly Federal Power Commission v. Natural Gas Pipeline Co. (1942) 315 US 575, 86 L ed 1037, 42 PUR NS 129, 62 S Ct 736, and Federal Power Commission v. Hope Nat. Gas Co. (1944) 320 US 591, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281, it is not necessary for us to receive or consider evidence of cost of reproduction new less depreciation, in determining the fair value of the property of the Company. On the other hand, the Company insists that the doctrine of Smyth v. Ames (1898) 169 US 466, 42 L ed 819, 18 S Ct 418, is still in force and it is incumbent on us under both the Federal and state Constitutions and under the statutory law of Maryland to receive and consider evidence relating to reproduction cost.

Fair value under the Maryland Law.

[1, 2] The doctrine of Smyth v. Ames, *supra,* has been severely criticized by courts, Commissions, and others, including this Commission. See opinions of this Commission in rate cases of Re Consolidated Gas, E. L. & Power Co. (1923) 14 Ann Rep Md PSC 100, 103, and Re Potomac Edison Co. (1932) 23 Ann Rep Md PSC 305, 317, PUR1933B 6. However, this Commission has consistently received evidence, in rate cases, of reproduction cost new less depreciation, although the weight which has been given to such evidence has varied with the particular facts of the cases and the economic conditions existing at the time of the investigation. It would serve no useful purpose to review and restate the numerous criticisms of the cost of reproduction theory. This question has been elaborately briefed and argued before us in the present case and in the recent rate case of the Consolidated Gas, Electric Light and Power Company of Baltimore. It doubtless will be an issue in other rate cases until there is a controlling authoritative decision on the precise point. It is not necessary for us to decide whether, as a matter of *constitutional law,* evidence of reproduction cost must be received and considered in fixing rates. We have reached the conclusion that the recent cases to which the other parties refer have not changed the meaning of the Maryland Public Service Commission Law (Code Art 23, §§ 344–429), as

construed by the court of appeals of this state. Havre de Grace & P. Bridge Co. v. Public Service Commission, 132 Md 16, PUR1918D 484, 103 Atl 319; Miles v. Public Service Commission, 151 Md 337, PUR1926D 610, 135 Atl 579, 49 ALR 1470; Public Service Commission v. United R. & Electric Co. 155 Md 572, PUR1928D 193, 142 Atl 870. Under the law of this state (Art 23, §§ 396, 372 and 411) rates must be predicated on the "fair value" or "upon the value" of the property, synonymous terms, used and useful in rendering service to the public. We construe the statute to mean that all of the usual elements relevant to the determination of value of property generally must be received and considered in determining the value for the purpose of fixing rates; in other words, there is no special rule for valuation of property *for rate-making purposes,* which we are advised does, however, obtain in some other jurisdictions. This precise point was decided by the Court of Appeals of Maryland in Havre de Grace & P. Bridge Co. v. Public Service Commission, *supra,* 132 Md at p. 26, PUR1918D at p. 493, decided in 1918, which was before the enactment of § 372 in its present form, relating to fixing of temporary rates, in which the court said:

"Both in the argument and in the brief filed on behalf of the Public Service Commission there was used, probably by inadvertence, an expression calculated to mislead, namely, the value of the property of the bridge company *for rate-making purposes.* The provision for the valuation of the property of a corporation, subject to the Public Service Law, is found in the Code in Art 23, § 442 (now § 396), where the Commission is empowered to 'ascertain the fair value of the property of any corporation subject to the provisions of this subtitle.' That, and that only, is the valuation which the Public Service Commission is authorized to ascertain, and it would tend not only to work an injustice, but to render absurd a proposition that the property of a public service corporation might have one value in fact, another for purposes of rate making, and a third for purposes of taxation, in the absence of statutory provision such as obtains in some states, that for taxation purposes property is to be assessed at only a given percentage of its real value. What the Commission in this case was authorized to ascertain under the section referred to was the *fair value* of the property."

[3] Even though it is necessary to receive evidence relating to reproduction cost, the probative value of such evidence may have but slight, if any, effect in a particular case. It is at best only one of the elements to be considered in determining value. Indeed, in this case, the Company recognizes this principle in its brief, where it is stated that it would be fallacious to adopt either current cost or original cost as the sole measure of fair value, and it urges that equal weight should be given to each element. And in oral argument counsel for the Company stated that it would be unlawful for us to predicate the value of the property solely on either current cost or original cost.

Current Cost or Cost of Reproduction.

The Company has produced evidence of what it calls "current cost

study" of its property, which it says is comparable to, but not the same as, a reproduction cost new study. The current cost study "shows the estimated cost of telephone plant of the Company, assuming that it has been built in the same manner as actually placed but at the labor and material prices and cost levels prevailing on December 31, 1946." According to the testimony the current cost study avoids the use of the detailed expensive and time-consuming inventory and appraisal commonly made in determining reproduction cost, and with respect to such items as superintendence, general overheads, interest during construction, omissions, and contingencies and other items, it is stated they have been included only on the basis of the Company's actual experience. As summarized by the Company, the current cost study prices the existing plant at present cost levels and on a basis of actual experience rather than theory, and there has not been included any amount for omissions and contingencies and going value. Assuming the differences between the two studies testified to by the Company's witnesses, the major criticism of reproduction cost is, as a practical matter, equally applicable to the so-called current cost.

The estimated undepreciated current cost of the total telephone plant as of December 31, 1946, is $131,139,022, which is to be compared with the undepreciated book or original cost of $91,689,487 as of the same date. In preparing said estimate of current cost, the methods used, *except for buildings,* are classified in three basic groups, (1) book cost, (2) index method, and (3) principal item method. In applying these methods, rights of way and land were included at book cost, central office equipment at the principal item method, motor vehicles, and other equipment including tools at the current price of the same or similar property. Buildings were included at $10,664,818 to which further reference will be made. Telephone plant under construction and property held for future use were included at book cost. In preparing the index numbers some of the components thereof did not appear on the Company's books and were obtained from the Western Electric Company for such items as material, equipment specifications, and installation, and it was necessary for the witness to exercise judgment in analyzing detailed billing of particular jobs in order to develop an average. It is interesting to note that the current cost of property in one category (station apparatus) out of twenty categories of property was less than the book cost. However, the estimated current cost of the Company's total property over book or original cost is approximately 43 per cent.

The estimated current cost of the buildings was furnished by Mr. William B. Spencer, an engineer with the Consolidated Engineering Company. He grouped the 51 buildings owned by the Company in this state of which 13 are in Baltimore city into the following five classes: (1) modern or recently built fireproof buildings in Baltimore, (2) older fireproof buildings in Baltimore, (3) semi-fireproof buildings in Baltimore, (4) buildings in small cities, (5) buildings in towns and villages. Mr. Spencer then selected one building in each of the five

groups which was supposed to be representative of all of the buildings in the group, estimated in detail the quantities of material, labor, and overhead for that building and priced these out at prices prevailing on December 31, 1946. From the cost of the building thus determined and its cubic contents, he determined the cost per cubic foot for the sample building in each of the representative groups. He then applied the cubic foot cost of the sample building in each of the groups to the number of cubic feet in each of the other buildings in the respective groups. His aggregate current cost of all buildings is $10,697,175, which is to be compared to undepreciated book or original cost of $5,780,076.

After ascertaining the current cost of all the property, the Company deducted 29.3 per cent thereof as accrued depreciation and obsolescence. This percentage (29.3 per cent) is the rate of the book depreciation reserve to the book cost of such property.

The current cost study has produced some unusual results which reflect on the probative value of current cost in determining the rate base. As an illustration, in Company's Exhibit 38, page 10, some manual central office equipment is included in current cost at $1,951,900. It was installed before 1916 and its service life was estimated to be fourteen years according to Exhibit 35. It was testified that this general type of equipment might be used in some small towns but not if there was involved a large installation, and, even if that type were so used, the equipment would not be of the type built in 1916. The original cost of this equipment, installed over the years prior to 1916, is $875,333, and it is included in current cost at 223 per cent of original cost. On the same page of Exhibit 38 it appears that $4,192,707 was the aggregate book cost of equipment installed during the period 1916 to 1932, estimated to have a service life of fourteen years, and that it had a current cost value in 1946 of $5,978,-451.

The Company is in a stage of transition from manual to dial equipment. New buildings are now being or shortly will be constructed which will retire some of the existing buildings. At least 10 of the buildings will be retired within the next few years and some of them were scheduled for retirement some years ago. Some of the buildings and central office equipment are being replaced with larger buildings and equipment which is of greater capacity, newer types, and capable of giving better service. The investment for dial equipment is greater but the cost of operation is less.

The Company estimated that net additions to plant from December 31, 1946, to June 30, 1947, would amount to $7,000,000 and the Company plans to expend for construction and expansion approximately $47,000,000 during the years 1947 and 1948 and $90,-000,000 during the next five years.

The current cost of the most modern and recently constructed building on St. Paul Place, built in 1940, is $1 per cubic foot. The current cost of the Vernon central office building, which was constructed in 1903, is $1.37½ per cubic foot. The latter is less modern and useful than the former. Indeed, the Vernon central office building is scheduled to be abandoned and razed in 1950. The original cost of the South Center building was $14,-

000. Its current cost is stated to be $75,000. If all the buildings in Baltimore city were replaced with buildings similar to the most recently built St. Paul Place type of building, the estimate of current cost of all buildings in Baltimore city would be $1,250,000 less than now contained in the Company's exhibit and such buildings would be more servicable to the Company.

As above indicated, the estimate of the current cost of the most modern and recently built St. Paul Place building (classified as type 1) is $1 per cubic foot, while the Vernon central office building (classified as type 2) is $1.37½ per cubic foot. It is important to note that the current cost of the seven type 2 buildings is $4,728,007, which is about 45 per cent of the current cost of all buildings. The current cost of type 1 buildings which, of course, are the most modern and most useful, is $2,200,000. It was frankly admitted that if it were necessary to replace the buildings in Baltimore city, the type 2 buildings would not be constructed as they now are but would be considerably revised; that the St. Paul Place type would be erected. The dates of construction of the various buildings range from 1899 to 1940.

According to Mr. Spencer, the increase in cost of building construction was 46 points for 1946 and it has increased 18 points during the first four months of 1947. He said prices of building material are not yet stabilized; the demand is greater than the supply, and there is no competition.

For purposes of this case current cost will be considered the equivalent of reproduction cost because there is not sufficient difference between them under the evidence to relieve the former of the infirmities of the latter. They will, therefore, be used interchangeably. In its major aspect, reproduction cost is an estimate of the cost of producing the same plant at the same locations and constructed of the same materials at the current prices of labor and materials. It obviously would normally take a long time to duplicate such a utility, usually estimated at three to five years, during which period, *in normal times,* the price of both labor and materials may increase or decrease to a considerable extent. It involves duplicating items of equipment and even buildings which are virtually obsolete and ready to be discarded, for many of which presumably the patterns, molds, and dies have been destroyed and could not be reproduced except at prohibitive cost. In short, it is a theoretical reproduction of something which, as a practical matter if it did not exist, would not be produced in its present form and locations. As this highly theoretical process has questionable probative value in times of normal and stable economy, it has even less value at the present time. And the latter is particularly true with respect to the instant utility.

As heretofore mentioned, the Company is engaged in a major transition from manual to dial equipment. It has a large backlog of orders for telephone service which requires an enlargement and, to a large extent, rearrangement of some of its present facilities. Many of its buildings and much of its equipment is presently to be discarded. New buildings are to be (some are in the process) constructed and new equipment is to be installed or substituted for old, all of which will involve

the expenditure of a huge sum of money, estimated to be $47,000,000 during the years 1947 and 1948 and $90,000,000 during the next five years. These enormous changes strongly indicate that there would be very little reality involved in undertaking to determine value from an estimate of the current cost of reproducing the present plant.

Also, such an estimate of reproduction cost, in order to have probative significance, should be predicated on the existence of economic conditions which will permit the erection of such a plant; otherwise the study is meaningless. If necessary, we could take notice of the shortage of materials and, to a less extent, labor, but Mr. Spencer, a construction engineer, explained that the prices of building materials are not yet stabilized and the demand is greater than the supply.

Some of the matters already alluded to emphasize the necessity of carefully scrutinizing estimates of reproduction cost in determining value in most cases. Perhaps a slight further amplification may help to clarify our comments. The manual central office equipment above referred to which was installed over the years prior to 1916 and which was estimated by the Company to have a service life of fourteen years is included in current cost at $1,951,900. The aggregate current cost of such equipment whose life span of fourteen years *had expired in 1946* is $7,930,444 and it is depreciated only 29.3 per cent. Although at least 10 buildings and much manual equipment will be retired within the next few years, the aggregate current cost of them is not only substantial, but they have only been depreciated 29.3 per cent by the Company in determining the current cost rate base. A further detailed illustration is the Vernon central office building, which cost $92,226 in 1903. Although it is now scheduled for retirement in 1950, its present value is alleged to be $274,985, based on current cost of $303,181 less 29.3 per cent depreciation. Of course the depreciation rate of some of the other property should be less.

[4] The matter of depreciation is an important consideration which materially affects the evidentiary value of current cost in this case. Each item of property included in the current cost rate base should be *separately* depreciated, according to its service life or usefulness, in order to ascertain its net current cost. Instead of doing this the Company deducted from the aggregate current cost of all property 29.3 per cent, which is the ratio of the book depreciation reserve to the book cost. Even if the ratio of the book accrued depreciation to the book cost as to each property were deducted from the current cost of the particular property, the aggregate depreciation from current cost of all properties may be much more than 29.3 per cent of the aggregate current cost. At least we are left in a state of uncertainty with respect to the exact amount of depreciation which should be deducted from current cost. We cannot accept the short cut adopted by the Company in the absence of an affirmative showing that the amount thereof equals or exceeds the amount that would be realized by the use of more conventional methods.

[5] "Current cost" involves both the current cost of reproducing the property and the establishment of adequate depreciation so as, theoretically,

to reduce it to the present condition of usefulness of the existing property. Unless such depreciation is properly proved the whole current cost structure fails of its principal purpose. For all of the reasons indicated we think it would be unwise at this time to give great weight to the evidence adduced with respect to current cost in determining the value of the Company's property for the purpose of fixing rates for the future. It is clear, however, that the *present* value of the Company's property exceeds its original cost and we have accordingly, as hereinafter set forth, allowed $1,513,000 in the rate base to reflect such excess. This represents an increase of less than 2½ per cent over original cost.

Working Capital.

The Company claims as part of the intrastate rate base cash working capital of $1,728,412 which is one-twelfth of operating expenses, excluding depreciation and taxes, and an allowance for material and supplies of $1,503,335, which is the amount on hand as of February 28, 1947. The other parties object to any cash working capital and the United States in addition contends that the allowance for materials and supplies should not exceed $1,046,969. The objection to allowance of any cash working capital is based on the contention that the charge for exchange telephone service is billed, and to a large extent paid, in advance of the rendition of such service. From an analysis and study made by a witness (Mr. Kosh) for the United States, the latter contends that the payments in advance of rendition of service are such as to cause a negative or red cash working capital requirement in the amount of $456,366 and as said sum is available for the purchase of materials and supplies inventory, the amount of the materials and supplies item accordingly should be reduced to $1,046,969. In departing from our previous practice in the 1933 rate case of the Company (24 Ann Rep Md PSC 288, 334, 1 PUR NS 346, 389), under the particular facts of that case, we said:

"In the course of the hearing when testimony as to working capital was about to be taken, the Commission announced, in order to shorten the case as much as possible, that it intended, unless convincing reasons to the contrary were given, to adhere to its practice of allowing one-eighth of annual operating expenses plus materials and supplies as working capital for the Company. Later, people's counsel suggested that he wished to offer evidence which, in his opinion, would show that such an allowance as the Commission indicated it might be willing to allow, would be too great an amount to be allowed this Company. Testimony was thereupon taken on this point.

"It has been the practice of this Commission to make an allowance for working capital for gas and electric companies of one-eighth their annual operating expenses plus materials and supplies largely because of the fact that there is a lag of six weeks between the time service is rendered by such companies and the time bills are paid. It had previously allowed the Telephone Company working capital on the same basis. In the case of the Telephone Company, however, it was developed that its bills for exchange service are sent out and collected in advance. To the extent that they are

collected prior to the completion of the month's service the subscriber advances working capital. Telephone Company studies indicate that on an average there is a lag of twenty-five days between the performance of the service for which bills are rendered and the collection of revenues. This lag is thus about one-half of that experienced by electric and gas utilities. Therefore, if an allowance of 25/365 of the proper annual expenses should be allowed, that would seem to meet the situation."

The formula adopted by us was approved in a proceeding instituted by the Company to set aside the Commission's order. Chesapeake & P. Teleph. Co. v. West (1934) 3 PUR NS 241, 7 F Supp 214.

[6] The amount, if any, of cash working capital to be allowed is a question of fact in each case. That is the reason for the departure in 1933 from our previous practice. Since then the factual situation may be further affected by the consideration that Federal income taxes of corporations are much greater now than in 1933 and the accruals therefor may be used part of the year as working capital. The study made by Mr. Kosh is interesting but we are not convinced that it is sufficiently realistic of the actual situation to cause us, in our consideration of the whole case, to eliminate this item from the rate base. Accordingly we will allow cash working capital of $1,728,412 and for materials and supplies $1,503,335.

Telephone Plant under Construction and Property Held for Future Use.

[7] The other parties seek to have disallowed in the rate base the actual cost incurred by the Company in connection with plant under construction and land it has acquired for future use. Presumably such a proposal is based upon the contention that such property is not used and useful in the public service. The only evidence in the case is to the contrary, although it comes from the Company's employees.

Mr. Arthur L. Lanigan, assistant vice president of the Company, testified that the amount included in Account 100.2 for plant under construction was $2,216,478 ($1,993,058, intrastate) as of March 31, 1947; that this sum had actually been expended by the Company for "plant urgently needed to serve the people of this state and there is no other way by which we can get this needed plant into service under the Uniform System of Accounts prescribed by this Commission, except by charging its cost initially to Telephone Plant under Construction." He further stated that the transfer of the amount in Account No. 100.2 to Telephone Plant in Service (Account No. 100.1) would occur within a period not to exceed six months. There was no refutation of this testimony.

A similar contention with respect to plant under construction was repudiated in New York Teleph. Co. v. Prendergast, PUR1930B 33, 50, 36 F2d 54, 65, where it was said:

"The rate fixed must be reasonable and just as to the present and also for a reasonable time in the future. Therefore, the fair value of work under construction must be included as well as that presently used. The master's findings as to this item for the state and city are reasonable. They were properly included in the valuation of the property found to be used and use-

ful in the service rendered and to be rendered. . . ."

A like conclusion was reached in New York & Q. Gas Co. v. Prendergast, PUR1924E 59, 1 F2d 351, 364.

It is likewise not denied that "Telephone Property Held For Future Use" as carried in Account No. 100.3 (which aggregated in cost $168,964 ($164,756 intrastate) on March 31, 1947) is composed entirely of land acquired for the erection of central office buildings or additions thereto. Nor has any evidence been adduced by way of denial of Mr. Lanigan's assertion that the purchase of such land prior to its actual use was necessary for prudent operation and resulted in the Company acquiring such land on favorable terms. Mr. Masson, chief auditor for the Commission, a witness produced by the people's counsel, contended such property should be excluded from the rate base. A similar contention was passed upon by the supreme court of Washington, in State ex rel. Pacific Teleph, & Teleg. Co. v. Department of Public Service (1943) 19 Wash2d 200, 52 PUR NS 6, 26, 142 P2d 498, an opinion rendered on October 22, 1943. The court there held that the Washington Commission was in error in excluding from the rate base certain tracts of land acquired years prior to the date of the rate proceedings but purchased for future use. The court said:

"We are convinced that the tracts of real estate above referred to were purchased by respondent in good faith, with every reasonable expectation that they would before long be improved by buildings which would be used in the course of the company's business. While some years have elapsed since the purchase of the property, we hold that at this time it should be included in the rate base. The trial court did not err in directing the Department to consider these tracts of real estate in computing the valuation of respondent's property."

To the same effect are Brooklyn Borough Gas Co. v. Prendergast, PUR1927A 200, 16 F2d 615, 626; McCardle v. Indianapolis Water Co. 272 US 400, 413, 71 L ed 316, PUR 1927A 15, 47 S Ct 144; and Pacific Teleph. & Teleg. Co. v. Whitcomb, PUR1926D 815, 12 F2d 279, 298, affirmed 276 US 97, 72 L ed 483, PUR 1928C 408, 48 S Ct 223. We are, therefore, disposed to allow, considering the case as a whole, the cost of plant under construction and property held for future use, in arriving at the rate base.

The Fair Value of the Company's Property and Rate of Return Thereon.

[8] The method urged by the Company of determining the rate base is obviously a compromise between the maximum value reached by the use of two separate theories, current cost and original or book cost. This method may be satisfactory in the settlement of a private controversy but we must decide the issues by giving appropriate consideration to the applicable relevant evidence. It is our considered judgment that $65,000,000 is the fair value of the Company's property devoted to intrastate public service. Some of the items ($3,886,226 to $4,342,592) included in said rate base were vigorously and sincerely challenged by the other parties but we have resolved the doubts in favor of the Company. The other parties also strongly contend that

the rate of return should not exceed 5 per cent, but we have concluded, after carefully considering all the evidence and the opposing contentions of the parties that a return of 5½ per cent on $65,000,000 would be fair to the Company and the public.

[9, 10] The purpose of the statutory authority to the Commission to ascertain the value of the Company's property is to enable it to fix the rates which the Company is permitted to charge the public for the service rendered. Miles v. Public Service Commission, 151 Md 337, 344, PUR1926 D 610, 135 Atl 579, 49 ALR 1470. It is provided in the statute that the rates shall be *just and reasonable* to the public (§ 411). It is implicit that they also be just and reasonable to the Company. The rates ultimately fixed depend on the fair value of the property devoted to public use and the rate of return allowed thereon. Therefore, the rate of return must be just and reasonable. The latter consideration requires that the rate of return shall not be a fixed percentage that continues indefinitely. It must be related to all the factors affecting the particular utility including present, and to an extent, prospective economic conditions. A partcular rate of return may be too high or too low at one time and just the reverse at another time. If greater weight were required to be given to reproduction cost in determining the value of the property, further appropriate consideration would have to be taken of the present unstable and inflationary economy. And this may justify or require a lower rate of return, particularly in view of the present money market where securities bearing a low yield are freely absorbed.

Operating Expenses

In order to estimate the net income which the Company will probably realize from the established rate base and the rate of return thereon, it is necessary to give consideration to some disputed items of operating expenses claimed by the Company.

Current Maintenance

The Company's charge for current maintenance for the calendar year 1946 was $6,724,790. ($7,037,978 total for the fiscal year beginning April 1, 1946, and $6,589,659 intrastate for same period.) The amount in dispute is $716,300 which, after Federal income taxes, would be reduced to $444,106 of operating expenses. Mr. Holland, the chief engineer of the Commission, testified: "If I apply that figure, that factor, which checks so closely on traffic expense, I find that the unaccounted-for maintenance expense amounts to about $716,000 for the year. I don't know how it came about entirely, but it is so abnormal as compared to previous years, and knowing certain conditions which brought it about, I want to point out to the Commission it is an abnormal condition for the year." In response to the question: "What part of that unusual maintenance cost you referred to in 1946 will continue as far as this Company is concerned?" Mr. Holland replied: "I have no way of determining that." He was then asked: "Do you have any reason to believe it all will continue?", and Mr. Holland replied that "percentage-wise it might come down, but dollars-wise it might stay up."

Mr. Lanigan, an assistant vice-president of the Company, testified that the maintenance expenses increased from $5,279,000 in 1945 to $7,185,000 in the nine months ended March 31, 1947, equated to an annual rate. The increase amounted to $1,900,000, which was due to four principal causes: (1) Increased plant and telephones in service accounted for $600,000; (2) Increased wages amounted to approximately $600,000; (3) The expenses of rearranging and changing plant in connection with the increased construction work amounted to about $400,000; (4) The increased cost of other items, principally materials and contract services, amounted to about $300,000. Because telephonic communication was vital to the war effort and received high priorities the Company denied that there had been any deferred maintenance during the war years and contended that because of the curtailment of new construction and installation work there was more labor and material available for maintenance.

If any part of said maintenance item is abnormal or not current or is applicable to a prior year because maintenance was deferred, we can only say that the fact and amount thereof does not clearly appear from the testimony. While it might be that a further detailed investigation would establish Mr. Holland's contention, we must decide the matter on the present record and, therefore, are required to rule that the maintenance charges in dispute constitute a proper item of operating expenses.

License Contract Payment

The Maryland Company pays 1½ per cent of its gross annual revenues to American under an agreement known as the "License Contract." A similar contract is entered into by American with all Bell System Companies and the contractual provisions, including the payment at the 1½ per cent rate, are uniform throughout the Bell System. The Company presented testimony tending to show the value of the services received by it from American under the license contract, particularly the technical benefits received from the Bell Laboratories and the General Department of American. It was testified that the services performed under this agreement could not be duplicated from any other source and that the resultant savings to the Company far exceeded the annual payment made under the contract. It was testified that the cost, allocated by American to the Company, of rendering the services required under the license contract is in excess of the payments made by the Company under the contract.

The reasonableness of the Company's payment under the license contract was contested in the 1924 rate case before this Commission. The rate of the contract at that time was 4½ per cent and the Commission ordered a reduction in the annual payment. The Federal statutory court reversed the action of the Commission and held that the full annual payment was allowable. Chesapeake & P. Teleph. Co. v. Whitman, PUR1925D 407, 3 F2d 938. In the 1934 rate case the reasonableness of the license contract payment by the Company was not challenged. The rate had then been reduced to 1½ per cent, the rate now in effect. In the present case the requested findings and conclusions presented jointly by the attorney general and the people's counsel do not contest the an-

nual payment made under the license contract. Under the evidence in this case we find that the payments made by the Company for the services rendered by American under the license contract are not unreasonable in amount and should be allowed.

Relief and Pensions

[11] The chief auditor of the Commission, Mr. Masson, in his testimony proposed the disallowance of two items of pension fund expenses aggregating $440,474 for 1946. This amount consists of $338,430 chargeable to Account No. 672 and $102,044[2] chargeable to Account No. 323. Although Mr. Masson was offered as a witness by the people's counsel, in the requested findings and conclusions, previously mentioned, there is no suggestion that any of the Company's pension expenses is unreasonable.

We have considered the evidence in the case with respect to the Company's expenses under its pension plan and in our judgment the Company's treatment of the items questioned by Mr. Masson is proper. His assertion that the amount of $338,430 should be disallowed is based on the premise that the Company, in computing the periodic payments which it makes into the pension trust fund, should have anticipated and provided for the various wage increases and other like items which have occurred since 1937. It is quite doubtful that this Commission, or any other regulatory body, would have permitted the Company to speculate as to the amounts of such unknown future events and claim as allowable pension fund expense, any amount based on such speculation.

The contention that $102,044 should be disallowed as pension fund expense is apparently based on an order of the Federal Communications Commission, dated December 2, 1942, requiring this item of pension accrual to be charged "below the line" and to be reported in Account 323. But we find nothing in the said order which prescribes the rate case treatment of the item. On the contrary, the order itself specifically points out that the Commission was dealing with an accounting case, not a rate case, and was concerned with the accounting propriety of the item rather than the treatment of the item for rate-making purposes. This view of the Federal Communications Commission's order was also taken in New England Teleph. & Teleg. Co. v. United States (1943) 52 PUR NS 303, 53 F Supp 400, where the details and history of the Company's pension plan are set forth.

The Bell System pension plan has received judicial approval in several decisions. State v. Tri-State Teleph. & Teleg. Co. (1939) 204 Minn 516, 28 PUR NS 158, 284 N. W. 294; Chesapeake & P. Teleph. Co. v. Public Utilities Commission, 62 Wash Law Reps 486; State ex rel. Pacific Teleph. & Teleg. Co. v. Department of Public Service (1943) 19 Wash2d 200, 52 PUR NS 6, 142 P2d 498.

[2] When the Company in 1937 adopted the full service accrual basis of financing its pension requirements there was an unfunded actuarial reserve requirement of $3,208,722 applicable to past service. This amount would increase annually unless steps were taken to arrest its growth. This was accomplished by paying into the fund annually a sum resulting from multiplying $3,208,722 by the interest rate assumed in the actuarial calculations. Said calculation at an interest rate of 3 per cent, with slight adjustments, resulted in $102,044. This matter is more fully explained in New England Teleph. & Teleg. Co. v. United States (1943) 52 PUR NS 303, 53 F Supp 400.

When the plan was established, more than a third of a century ago, the importance of dealing with the problem of aging employees was not generally recognized by business concerns, many of which were relatively young and rapidly expanding. Therefore, it was but natural that, when the Company's plan was inaugurated in 1913, it was placed upon a pay-as-you-go basis, as apparently were the plans of the comparatively few business organizations which were then in being, or which were created in the following decade. In point of fact, the accounting regulations of governmental agencies which were in effect at that time apparently made no provision for their handling on any other basis and it was not until 1927 that the Interstate Commerce Commission amended the system of accounts prescribed by it for telephone companies so as to allow advance provision for pensions by current charges to operating expense of amounts actuarially determined.

The same year that this amendment was made the Company established a pension trust fund and adopted the accrual method of accounting for pension costs. Since then, by successive steps, the Company has undertaken to make provision for the periods of service which many employees had accumulated before the adoption of the accrual basis. While the intent of the pension plan is to provide for a business and social problem concerned with the future, it is not possible, at any time, to determine with exactness and finality what the requirements will be at some distant date, as changes in conditions are occurring, and will continue to occur in the future, which affect the requirements. The general and substantial increase in wage rates of the Company's employees which has recently been made well illustrates this point.

In connection with this general subject, it is interesting to note that, although the state of Maryland did not have any general retirement system for its own employees until 1937, the plan inaugurated in that year was on a pay-as-you-go basis, and it was not until four years later, in 1941, that the system was converted to an actuarial basis. Since then, various changes have been made in the rights and benefits of the employees thereunder, which serve to increase the cost to the taxpayers of the state, not only as concerns accruals for future employment, but also with respect to liability for past service.

We think it must be concluded that these items are properly chargeable to operating expenses as part of the pension system.

Rate of Return in Relation to Requirements of the Company

[12, 13] The standard of measuring the return to which a utility is legally entitled is fully set forth in Bluefield Water Works & Improv. Co. v. West Virginia Pub. Service Commission, *262* US *679, 692, 693, 67* L ed 1176, PUR1923D 11, 20, 43 S Ct 675, as follows:

"What annual rate will constitute just compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts. A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the

convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties . . . ."

And later in United R. & Electric Co. v. West, 280 US 234, 251, 74 L ed 390, PUR1930A 225, 229, 50 S Ct 123, the Supreme Court said:

"It is manifest that just compensation for a utility, requiring for efficient public service skilful and prudent management as well as use of the plant, and whose rates are subject to public regulation, is more than current interest or mere investment. Sound business management requires that after paying all expenses of operation, setting aside the necessary sums for depreciation, payment of interest and reasonable dividends, there should still remain something to be passed to the surplus account; and a rate of return which does not admit of that being done is not sufficient to assure confidence in the financial soundness of the utility to maintain its credit and enable it to raise money necessary for the proper discharge of its public duties."

The Supreme Court sustained these same principles in Federal Power Commission v. Hope Nat. Gas Co. (1944) 320 US 591, 603, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281.

A witness for the Company testified that its minimum required annual net income is $4,187,000, and he expressed this in percentages as 6.59 per cent of original cost and 4.73 per cent of current cost. It was also testified that if the Company were now newly created in Maryland the present conditions would require that the over-all return on total capital be in excess of 7 per cent. Two other witnesses testified on this general subject, Dr. Lawrence S. Knappen, who was employed as an expert by people's counsel, and Mr. David A. Kosh, head of the Public Utilities Division of the Bureau of Supply of the United States Treasury Department. Mr. Kosh stated that the fair rate of return to be applied to the net investment of the Company is measured by the cost of capital to the Company and that the latter should range between 4.4 per cent as an average and 4.7 per cent as a maximum. According to Dr. Knappen the rate of return should be from 4.33 per cent to 4.98 per cent depending on whether the rate is fixed on the basis of the Company being an affiliate of American or being independent of the latter.

While both Dr. Knappen and Mr. Kosh used what is commonly designated as the earnings-price ratio to establish the cost of equity capital, the procedures followed by them in the determination differ somewhat. For example, while Mr. Kosh used the 7-year period between 1940 and 1946 as a basis for his conclusions, Dr. Knappen used spot earnings-price ratios in the evident conviction that

the most recent information is of more value for this purpose.

Dr. Knappen disagreed with the conclusion of Mr. Kosh that it would be unreasonable to be governed by spot market prices in the determination of significant price ratios, and he contended that any time a stock is selling above the book value, it indicates the investing public's belief that the earnings are in excess of the amount necessary to support the actual investment, assuming that the book values reflect actual investment. From this it would logically follow, he conceded, that the earnings of the public utility should be so regulated that its stock would at all times sell in the market at approximately its book value, even though this admittedly would require that rates be lowered when business conditions were good (or factors in the security markets favorable), and that rates be raised when business (or market) conditions were bad.

Because of the many conditions and factors which affect and control the market prices of securities, some of which, at times, cause very abrupt and violent changes, which continue for varying lengths of time, it is difficult to take seriously the suggestion that a regulatory body pursue any such course as that which seems to follow Dr. Knappen's approach.

While on the surface the approach of Mr. Kosh is more rational and his method eliminates what seems to be some of the more glaring defects of the Knappen procedure, it also is subject to considerable uncertainties as a reasonable and logical method of assisting the Commission determine the rate of return which should be allowed the Company in order that its owners may receive a reasonable return on their investment, and the Company continue to attract the new capital, which is required, if it is to meet its obligations to the public which it serves.

Manifestly the 1940–1946 period used by Mr. Kosh was one in which, due largely to the conditions growing out of the war, extraordinary factors which were of controlling importance in the security markets, came into play. While legislation restricting earnings was enacted, there was such a flow of capital into the financial markets that the Federal Reserve Board felt it necessary to discourage and restrict speculation. The Board ultimately required that securities must be paid for in cash, thereby eliminating all marginal trading. This was a period when there were very few offerings of new securities and when there was an unprecedented shortage of consumer goods.

During other periods the strength of the speculative market has been such as to bring about most abnormal and illogical situations, as when, during the boom period preceding the crash which started late in 1929, the prices of many stocks were bid up to the point where their earnings, at this time of speculative frenzy, were, when related to the market price, less than the yields currently obtainable from good bonds. Again, at other times, the weakness of the financial markets, either as a whole, or with respect to the stocks of certain companies or classes of corporations, has resulted in the most distorted, even fantastic, earnings-price ratios in the other direction.

The Commission must conclude, from all the evidence before it, that the

earnings-price ratio is of no real help in its determination of the financial needs of the Company. The earnings-price ratio is largely theoretical and artificial and the value of any conclusions which reasonably might be drawn from studies of the nature introduced herein are subject to such limitations and modifications that they are of little practical use in the solution of the problem with which we are dealing.

The Company contends that its earnings requirements should be considered to be a certain proportionate part of the earnings requirements of the Bell System which is controlled by American and testimony with respect to the method of determining the proportionate part of such total requirements allocated to the Company was introduced. Reference to the effect of this relationship between the Company and American was made in Smith v. Illinois Bell Teleph. Co. 282 US 133, 75 L ed 255, PUR1931A 1, 51 S Ct 65, and Chesapeake & P. Teleph. Co. v. Whitman, PUR1925D 407, 3 F2d 938.

It is true that the capital which the Company has obtained in the past and presumably will obtain in the future, while obtained directly from American, is really indirectly furnished by the investors in the securities of American. And the obtaining of capital by American depends, to a large extent, upon its aggregate income, much of which comes from its subsidiaries, including the Company.

As appears from the testimony and also stated in reported court cases referred to herein, American conducts a nationwide telephone system. It wholly owns or controls approximately twenty-one separate operating telephone companies and also the Western Electric Co., Inc., which furnishes most of the equipment used by American and said companies, and Bell Telephone Laboratories, Inc., which is engaged in scientific research to improve the telephone equipment. Much of the work and assistance furnished by American to the Company is covered by payments under the license contract. In the absence of such relationship the cost of doing business by the Company would probably be greater and, therefore, it is advantageous to be affiliated with American. This should receive proper consideration in this case. On the other hand the situation is one which was voluntarily created by American and, to the extent that it is beneficial to the Company, the local public is entitled to participate in such benefits.

Testimony as to the proportionate part of the requirements of American which should be furnished by the Company came from officials of American. To adequately check and test all of the factors involved in the conclusion reached, probably would involve an investigation of American and possibly the other affiliated companies, if it were legally possible to do so, which would not be practicable for this Commission. But we have given careful consideration to all of such testimony in reaching our conclusions and have regarded it as relevant and helpful.

The Commission is satisfied that the best indication of operating income is obtained by taking the actual revenues, expenses, and income for the nine months ended March 31, 1947, and equating them to an annual basis. This produces the following:

	Total Company	Intrastate Operations	Interstate Operations
Local Service Revenues	$22,216,347	$22,216,347	$.....
Toll Service Revenues	9,633,229	3,628,507	6,004,722
Miscellaneous Operating Revenues	2,059,865	2,059,865	.....
Other Telephone Revenues	64,648	58,171	6,477
Less: Uncollectible Operating Revenues	70,666	47,011	23,655
Total Operating Revenues	$33,903,423	$27,915,879	$5,987,544
Current Maintenance	$7,184,585	$6,727,241	$457,344
Depreciation and Amortization	3,781,991	3,353,253	428,738
Traffic Expenses	10,534,166	7,578,495	2,955,671
All Other Expenses	7,691,248	6,435,204	1,256,044
Total Operating Expenses	$29,191,990	$24,094,193	$5,097,797
Net Operating Revenues	$4,711,433	$3,821,686	$889,747
Federal Income Taxes	$510,230	$333,517	$176,713
Other Taxes	2,662,917	2,307,986	354,931
Total Operating Taxes	$3,173,147	$2,641,503	$531,644
Net Operating Income	$1,538,286	$1,180,183	$358,103
Recent Wage Increase Applicable to Intrastate Operations		$779,000	
Adjusted Operating Income Excluding Effect of Temporary Rates		$401,183	

The permitted rate of return, 5½ per cent, on the fair value of the Company's intrastate property; or the rate base, $65,000,000, amounts to $3,575,000. The probable annual net income, based on the period covered by the above statement, is $401,183, leaving a deficiency of $3,173,817. The temporary or emergency rate increase, previously allowed, produced $2,100,000 net income, *i. e.*, $3,500,000 less 40 per cent (Federal income and Maryland gross receipts taxes and payments under the license contract consume 40.17 cents of each $1 of revenues) leaving a net deficiency of net income of $1,073,817, which requires an additional rate increase at this time of $1,789,695 ($1,073,817 divided by 60 per cent).

Thus, the net income that is expected to result from the permanent rate of return allowed is $3,575,000 as compared with the Company's demand of $4,187,000, a difference of $612,000. The Company has outstanding $60,000,000 par value of common stock, all owned by American. As the stock stands for all the property, if the same ratio (89.7 per cent), used for ascertaining the value of property allocable to intrastate business, is applied to the stock it will result, after interest payments, in a yield of approximately 6 per cent.[3]

[14] The above estimate of net income for the future is based on the experience of the last nine months ending March 31, 1947. The best test, of course, is actual experience, except where abnormalities, such as the recent telephone strike, are encountered. The current months commencing with April, 1947, were not included for this reason. We cannot see into the future but we expect our estimate to be real-

[3] All of the figures above are applicable to *intrastate*.

ized. The Company, as before indicated, has a large backlog of unfilled orders which, when filled, will produce additional revenue. And as it is making many changes from manual to dial operation, which cost less to operate although more expensive to install, its net income should tend to increase. On the other hand, there is evidence that the level of the Company's earnings will be adversely affected by automatic wage increases provided under its union contracts and by the carrying charges on the additional investment needed to place the Company on a "ready to serve" basis. These factors have been considered.

We have endeavored, in accordance with established legal principles and the administrative discretion permitted by law, *i. e.*, pragmatic adjustments, Federal Power Commission v. Natural Gas Pipeline Co. (1942) 315 US 575, 586, 86 L ed 1037, 42 PUR NS 129, 62 S Ct 736, to allow a return which will make the rates "just and reasonable" to both the Company and the public.

An order will be entered in accordance with the conclusions herein.

ORDER

In accordance with the opinion of the Commission filed herein on the date hereof, which opinion is hereby referred to and made a part hereof,

It is, this 13th day of August, in the year Nineteen Hundred and Forty-seven, by the Public Service Commission of Maryland,

Ordered: (1) That the fair value for rate-making purposes of the property of The Chesapeake and Potomac Telephone Company of Baltimore City, used in the rendition of Maryland intrastate telephone service on March 31, 1947, was $65,000,000, and such valuation shall be and become final unless protest against the same shall be filed with the Commission within ten days as provided by § 396 of Art 23 of the Annotated Code of Maryland.

(2) That the schedule of temporary rates and charges for telephone service put into effect by The Chesapeake and Potomac Telephone Company of Baltimore City under authority of the Commission's Order No. 43288 entered herein on February 4, 1947, together with all other schedules of rates and charges on file with the Commission as of this date, for the rendition of telephone service covered thereby shall constitute the Company's permanent schedules of rates and charges effective as of this date, except as modified by the next succeeding paragraph of this order.

(3) That the said The Chesapeake and Potomac Telephone Company of Baltimore City be, and it hereby is, authorized, empowered, and permitted to submit to the Commission amended schedule of rates for the rendition of telephone service furnished by the said Company and covered by the schedules specified in the preceding paragraph which, when accepted by the Commission and made effective, shall result in an increase, over and above the increase resulting from the aforesaid schedule of temporary rates, made permanent by the preceding paragraph, of not more than $1,789,695, in the gross annual revenues of the said Company and to charge in accordance with the said amended schedules on successive billing dates beginning not earlier than August 25, 1947.

(4) That The Chesapeake and

Potomac Telephone Company of Baltimore City be, and it hereby is, authorized and permitted to cancel the bond in the principal amount of $2,700,000 entered into pursuant to the requirements of the aforesaid Order No. 43288 and conditioned to insure prompt refund by the said Company to those entitled thereto of any amounts which the said Company might collect or receive in excess of such permanent rates and charges as might be finally fixed and determined by the Commission.

(5) That this order shall become effective on the date hereof and shall remain in effect until the further order of the Commission in the premises.

(6) That The Chesapeake and Potomac Telephone Company of Baltimore City shall furnish this Commission accurate and complete statements under oath, and in convenient form, setting forth the revenues, operating expenses, and other expenditures of the Company during each month; such reports to be furnished as soon as may be reasonably practicable and convenient after the end of each calendar month during the period this order remains effective.

(7) That a copy of this order and a copy of the opinion hereinbefore referred to and filed herewith be served upon the said The Chesapeake and Potomac Telephone Company of Baltimore City, and that the said Company within ten days of the date of service of such copy shall notify the Commission in writing whether or not it will accept and abide by the same.

FEDERAL POWER COMMISSION

Re Tennessee Gas & Transmission Company et al.

Opinion No. 150, Docket No. G-606
May 28, 1947

INVESTIGATION *to determine jurisdiction over rates charged by production and gathering company with respect to sales of natural gas made by it to affiliated transmission company; investigation dismissed with respect to production and gathering company for want of jurisdiction.*

Rates, § 13.1 — Jurisdiction of Federal Commission — Contract between affiliates.

1. The Federal Power Commission released jurisdiction over rates of a production and gathering company with respect to sales of natural gas made by it to a transmission company where the basic agreement between the companies was arrived at as a result of arm's-length negotiations and, although the companies subsequently became affiliated, the amendment made to the original arm's-length agreement during the period of affiliation did not

appear to be prejudicial to the ultimate consumers of natural gas delivered through the transmission company's facilities, p. 128.

Gas, § 2.1 — Jurisdiction of Federal Commission — Natural gas producing and gathering companies.

2. A company engaged primarily in the production, gathering, and processing of natural gas and the delivery and sale of such gas at the outlets of cycling plants or direct from wells into field or transmission lines owned by others, and which is not otherwise subject to the jurisdiction of the Federal Power Commission, is not subject to Commission regulation under the Natural Gas Act, p. 128.

By the COMMISSION: On December 15, 1944, this Commission instituted an investigation to determine whether The Chicago Corporation[1] (at that time the parent of Tennessee Gas and Transmission Company)[2] is a natural gas company within the meaning of the Natural Gas Act, and if Chicago be found to be a natural gas company, to determine with respect to Tennessee and Chicago whether any rates, charges, or classifications with respect to the transportation or sale of natural gas, subject to the jurisdiction of the Commission, are unjust, unreasonable, unduly discriminatory or preferential.

At the time this proceeding was instituted,[3] Chicago owned 81 per cent of Tennessee's voting stock and certain officers and directors of Chicago were also officers and directors of Tennessee. Further, Tennessee also purchased its entire natural gas supply from Chicago in Nueces county, Texas.

Pursuant to the order of December 15, 1944, an investigation of the operations of both Tennessee and Chicago was begun by the Commission's staff. Subsequently, on November 5, 1946, the Commission ordered that a public hearing be held concerning the matters under investigation in so far as they related to Tennessee; the order, however, to be without prejudice to further investigation of Chicago.

The investigation of Chicago has now been completed by the staff, and a staff report with respect to the jurisdictional aspects of the investigation as it relates to Chicago has been submitted to the Commission.

The basic contract under which

[1] Hereinafter sometimes referred to as "Chicago."

[2] Hereinafter sometimes referred to as "Tennessee."

[3] The Commission's order of December 15, 1944, provided in part as follows: An investigation be and it is hereby instituted for the purpose of enabling the Commission:

(A) To determine whether The Chicago Corporation is a natural gas company within the meaning of the Natural Gas Act;

(B) To determine with respect to Tennessee Gas and Transmission Company and The Chicago Corporation (if found to be a natural gas company) whether, in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, any rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential;

(C) If the Commission, after a hearing has been had, shall find with respect to the Tennessee Gas and Transmission Company and The Chicago Corporation (if found to be a natural gas company) that any of their rates, charges, classifications, rules, regulations, practices, or contracts, subject to the jurisdiction of the Commission, are unjust, unreasonable, unduly discriminatory, or preferential, to determine and fix by order or orders just and reasonable rates, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force.

Chicago sells natural gas to Tennessee was negotiated during August, 1943, whereby Chicago undertook to supply Tennessee's requirements to a maximum of 207,000 thousand cubic feet daily. The contract was formally executed on September 7, 1943, and was to run for twenty-five years from September 1, 1943.[4] During the period of the contract negotiations and at the time it was formally executed no affiliation existed between the two companies. The negotiations were carried on between two independent entities each seeking to obtain the best possible bargain, so that the agreement of September 7, 1943, when executed, was an arm's-length contract. Were it not for events which followed the execution of such gas supply contract it would not be necessary to say more concerning the relationship between the two companies.

Thereafter, however, Chicago agreed to undertake the financing of Tennessee's then proposed pipe line from Texas to West Virginia. As a result of a financial agreement entered into between the two companies on September 20, 1943, Chicago obtained control of Tennessee through the acquisition of 81 per cent of Tennessee's common stock. At that date, too, new officers and directors of Tennessee were elected all of whom were the nominees of Chicago.

Chicago retained its control of Tennessee until September 10, 1945. During this period of affiliation there were numerous amendments made to the original agreement between the two companies. However, the price for gas as set forth in the original agreement has not been changed, the amendments relating principally to the additional gas requirements of Tennessee.

On September 10, 1945, Chicago sold all of the securities of Tennessee which it then owned consisting of 124,200 shares (90 per cent) of the class A stock and 97,200 (81 per cent) of the common stock (voting stock) to a group of underwriters headed by Stone & Webster, Inc. As an incident to the sale of such securities all of The Chicago Corporation's nominees who were on the board of directors or serving as officers of Tennessee resigned. It appears that there has been no affiliation of any kind between the two companies since that date.

From the foregoing it seems to be clear that there can be no further basis for entering into an inquiry by hearing concerning the reasonableness of rates paid by Tennessee to Chicago premised upon a lack of arm's-length dealings between the two companies. The basic agreement between the companies was arrived at as a result of arm's-length negotiations and, although they subsequently became affiliated, the amendments made to the original arm's-length agreement during the period of affiliation do not appear to be prejudicial to the ultimate consumers of natural gas deliv-

[4] The prices to be paid by Tennessee to Chicago as set forth in the contract are as follows:

For all gas delivered during the first 5-year period ending September 1, 1950, 5 cents per thousand cubic feet.

For all gas delivered during the second 5-year period ending September 1, 1955, 6 cents per thousand cubic feet.

For all gas delivered during the third 5-year period ending September 1, 1960, 7 cents per thousand cubic feet.

The price for all gas sold and delivered to Tennessee from and after the expiration of the third 5-year period is to be determined by agreement between the parties to be made not less than six months prior to the end of the third 5-year period.

ered through the facilities of Tennessee.

Inasmuch as there is no affiliation between the two companies at the present time, any inquiry concerning the reasonableness of the rates of Chicago must be founded upon a jurisdictional determination of its status as a "natural-gas company" under the Natural Gas Act based upon its present operations. Further, Chicago makes no sales of natural gas for transportation and sale in interstate commerce to any company other than Tennessee, so that a finding as to jurisdiction must be predicated solely on its present operations as they relate to sales of natural gas to Tennessee.

Chicago owns or leases oil and gas acreage and mineral rights covering 122,869 acres in Nueces, Panola, Wharton, Victoria, Starr, Hidalgo, Rusk, Ft. Bend, Willacy, Austin, Colorado, DeWitt, Gaines, Gonzales, Karnes, and Lavaca counties, Texas, and 27,152 acres of unoperated leaseholds in Caddo, Natchitoches, and Quachita parishes, Louisiana.

In addition to Tennessee, Chicago also sells natural gas to Gulf Plains Corporation for resale. However, the gas sold to the latter is distributed and sold directly by it to one local industrial consumer situated within the state of Texas. Since the provisions of the Natural Gas Act do not apply to such sales, further consideration of this phase of Chicago's operations is unnecessary.

Tennessee is a natural gas company within the meaning of the Natural Gas Act and a substantial part of its natural gas requirements are now purchased from Chicago. The gas so purchased from and delivered by Chicago is transported by Tennessee in interstate commerce through its own pipeline system from the points of delivery in Texas to points in Tennessee, Kentucky, and West Virginia for ultimate consumption in those and other eastern states. The gas so delivered by Chicago to Tennessee is produced in the Stratton-Agua Dulce (Agua Dulce), McFaddin, Menefee, Hungerford, and Carthage fields in the state of Texas.

In the Agua Dulce field, Chicago owns and operates two processing plants, 27 gas wells, 8 injection wells, 24 oil wells, 8 oil and gas wells, and a series of gathering and return pipe lines. The gas produced from the gas wells, in addition to casinghead gas from the oil wells, is gathered and brought to a common point within the field which is at the inlet of the processing plants. The gas is then processed in such plants where gasoline, butane, and other hydrocarbons are removed. The residue gas is either returned to the producing horizons or is delivered for sale to Tennessee at the tail-gate of the processing plants. In a few instances gas is delivered to Tennessee direct from wells and well lines.

Chicago has contracts with other production companies in the Agua Dulce field under which it gathers and processes the gas produced from the wells of such companies. The residue gas is then returned to the producing horizons or is delivered for sale to Tennessee at the tail-gate of the processing plants of Chicago. In these transactions, Chicago acts only as agent in delivering the gas of others to Tennessee and retains no revenue from such sale.

In the McFaddin field, Victoria county, Texas, Chicago owns 6,911 acres of leaseholds, 5 gas wells, 3 oil wells, and a small number of gathering lines. The Barnsdall Oil Company owns and operates a 4-mile 6-inch pipe line extending from this field to a point on Tennessee's main transmission line adjacent to the field where it delivers and sells gas to Tennessee. Since the total volume of available gas produced from this field is relatively small Chicago entered into a contract with Barnsdall to deliver its gas to Tennessee through this same pipe line. All of such gas is dehydrated immediately prior to delivery and sale to Tennessee.

In the Hungerford field, Wharton county, Texas, Chicago owns leasehold rights on approximately 3,700 acres, 3 producing gas wells, and a limited number of small diameter gathering lines. Tennessee owns and operates a 5-mile lateral pipe line from its main transmission line to a common point within the field. The gas gathered by Chicago is delivered to Tennessee at the end of Tennessee's lateral line. The operations in this field are confined to production and gathering only.

In the Carthage field, Panola county, Texas, Chicago has associated itself with others in the ownership, maintenance, exploration, development, production, and operation of jointly owned oil and gas leases and a gas processing and dehydration plant, Chicago being the operator and owning 58 per cent of the unitized properties. Chicago and associates own approximately 21,000 acres of leaseholds, 32 gas wells, one processing plant, one dehydration plant and a series of gathering lines in this field.

The gas produced from the wells in such field is gathered and brought to a common point within the field located at the inlet of the processing plant. The collected gas is then run through the processing plant where the liquefied hydrocarbons are removed and fractionated into various plant products. The residue gas, after dehydration, is then delivered to Tennessee at the outlet of the plant.

In the Menefee field, Wharton county, Texas, Chicago owns a 50 per cent interest in 2,471 acres of leaseholds, 6 gas wells, and a small number of gathering lines. The properties in the field are operated by Salt Dome Oil Corporation. The gas is gathered through a series of gathering lines and brought to a common point at the inlet of a dehydration plant located near Tennessee's main transmission pipe line adjacent to the field. The gas is run through the dehydration plant and delivered to Tennessee at the outlet of such plant. The gas sales contracts with Tennessee are made jointly with Salt Dome Oil Corporation, Pan American Production Company, and Chicago. Salt Dome, being the operator, collects all revenues from the sale of gas and pays Chicago and Pan American their respective percentages of the net income.

From the foregoing, it is clear that, although Chicago makes sales of natural gas for resale to an interstate pipeline company for transportation and sale outside the state wherein it is produced, it has no transmission facilities. It is a company engaged primarily in the production, gathering, and processing of natural gas and the

delivery and sale of such gas at the outlets of cycling plants or direct from wells into field or transmission lines owned by others. Such operations are similar to sales made by oil companies of casinghead gas produced by such companies as a part of its oil production.

In our recent Opinion No. 149, in Re The Fin-Ker Oil & Gas Production Co. Docket No. G-352 (1947) 69 PUR NS 85, 90, we concluded as follows:

"Consistent with former decisions and public statements of this Commission, we held that, where a person not otherwise subject to the jurisdiction of the Commission, is engaged in production or gathering of natural gas exclusive of its transportation in interstate commerce and makes arm's-length sales and deliveries of natural gas in interstate commerce as an incident to or upon completion of that person's production or gathering, the provisions of the Natural Gas Act do not apply."

See also orders of May 20, 1947, in Re Whelan, Docket No. G-899, 69 PUR NS 159, and Re Kansas-Nebraska Nat. Gas Co. Docket Nos. G-856, G-494.

In view of the facts as they exist here, there appears to be no reason to elaborate on the statement made in Opinion No. 149.

The Commission finds that:

[1] (1) There is no basis for asserting jurisdiction over the rates and charges of Chicago with respect to sales of natural gas made by it to Tennessee premised upon affiliation between the two companies or a lack of arm's-length bargaining with respect to contracts entered into between them.

[2] (2) The operations of The Chicago Corporation do not constitute it a natural gas company within the purview of the Natural Gas Act and the rate investigation herein, in so far as it pertains to The Chicago Corporation, should be terminated for want of jurisdiction.

The Commission *orders* that:

The rate investigation instituted by order of December 15, 1944, herein, in so far as it pertains to The Chicago Corporation, be, and the same hereby is, terminated.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Dayton Power & Lt. Plans $16,523,950 Expansion

DALLAS POWER & LIGHT COMPANY plans to spend $16,523,950 to meet a huge demand for power—almost doubled since 1941 — according to a recent announcement.

So great has been the demand that it has outstripped the company's capacity to produce and the deficiency has been made up with purchased power.

New industries and increased use of air conditioning and other electrical equipment have brought the stepped-up demand. It will be the summer of 1949 before the company's expansion program can catch up with the increasing demand.

A new 60,000-kilowatt turbo-generator ordered last year is scheduled for installation at a cost of $6,850,000 in the Mountain Creek generating plant in time to meet the peak summer demand of 1949.

That will give the company a total generating capacity of 225,500 kilowatts against the expected peak load of 200,000 kilowatts that summer.

Another 40,000-kilowatt generator has been ordered and is scheduled to be put into operation in 1951. That generator will cost $5,000,000 and will step the company's kilowatt capacity up to 267,500.

Bendix Announces Winners of Window Display Contest

A NATIONWIDE window display contest for dealers of Bendix Home Appliances, Inc., ended recently with the announcement of winners. The 393 entrants, divided into four marketing groups, built their displays around replicas of the gold and silver-trimmed 1,000,000th Bendix automatic washer.

The winners included: First Group—Philadelphia Electric Company, first; Fourth Group—Bangor Hydro-Electric Company, Bangor, Maine, third.

First prize in each instance was a Bendix automatic washer, dryer, and ironer. Second prize was the choice of any two of these. Third prize was the choice of any one of the three. Prizes were awarded to the store display manager.

International Film Honor Won By General Electric

"CLEAN WATERS," a 16 mm motion picture produced by the General Electric Company in coöperation with the U. S. Public Health Service, has been selected as one of the world's six outstanding sponsored films at the International "Films of the World Festival" in Chicago.

Pointing up the dangers of water pollution and the need for adequate sewage treatment, "Clean Waters" received more first-place votes from the judging panel than any other entry.

"Clean Waters," selected by the judges for its contribution in the field of public welfare, was technically produced in Hollywood by Raphael G. Wolff Studios. The 28-minute film is a part of General Electric's long-range program called "More Power to America," designed to improve living standards and industrial efficiency through increased electrification.

Telling a forceful story of the $100,000,000 losses in the U. S. due to pollution, "Clean

Waters" has been widely acclaimed by professional and civic groups for its power to make everyone conscious of the role which sewage treatment can play in our national well-being. The picture cites U. S. Public Health Service figures showing that more than 12,000 communities do not now provide adequate sewage treatment.

Available for showing before any interested group, "Clean Waters" also has been purchased for permanent use by 30 state health departments and more than 40 national and local organizations.

High-Voltage Tidd Project Switchgear Described

SWITCHGEAR equipment developed for American Gas and Electric's high-voltage test project at the Tidd plant, Brilliant, Ohio, was described before members of the AIEE meeting at Chicago, November 4th by F. A. Lane of American Gas and Electric Service Corporation and B. W. Wyman of the General Electric Company.

The equipment includes a circuit breaker having a three-phase interrupting rating of 10,000,000 kva at 360 kv, the highest rating in the world, according to the authors.

The circuit breaker element is a low oil content impulse type, similar to those developed for the 287-kv transmission line between Hoover Dam and Los Angeles.

It was pointed out that breaker elements of this type can be developed for even higher interrupting ratings than 10,000,000 kva, although no immediate need for them is apparent.

The switchgear equipment for the Tidd project incorporates all required elements as a unit, and in this respect presents a new design concept for higher voltage switchgear, according to the authors. Structural supports, current transformers, relays, lightning arrestors, buses, coupling capacitors for carrier current equipment, disconnecting switches, and interlocks have been worked into a compact, integrated installation with the operation of each component functionally coördinated with the overall equipment.

This design, the authors said, provides all the functional advantages of conventional switching equipment in less space, reduces maintenance and improves safety.

Pacific Gas & Electric Plans Another Building Program

A NEW expansion program is now being planned by the Pacific Gas & Electric Company to be undertaken following the completion of the present $300,000,000 five-year construction which will add 1,000,000 horsepower to the company's generating capacity by the end of 1951, according to a recent announcement.

Of the major projects in the company's construction program, one is scheduled for completion this year, six next year, two in 1949 and one in 1950.

A new $7,200,000 substation and transmission

line adding 250,000 horsepower of electricity to the power pool serving Contra Costa and Alameda counties is scheduled to be completed next month.

Projects scheduled for completion by the end of 1948 include the $25,620,000 Kern steam plant; $15,600,000 Electra powerhouse; $10,300,000 Midway substation; the $23,700,000 Station P steam plant in San Francisco; $6,400,000 Mission station; and the $4,000,000 West Point powerhouse. The $3,325,000 Colgate powerhouse is scheduled for operation in June, 1949. Two plants costing a total of $61,800,000 will be added to the Feather river system with one, the Cresta to be ready for operation by the winter of 1949 and the second, the Rock Creek powerhouse to be ready a year later.

2,250,000 U. S. Farms Lack Electricity

More than 2,250,000 American farms did not have electric service on June 30, 1947, according to the annual Rural Electrification Administration estimates announced recently by the U. S. Department of Agriculture. The estimates show that about 400,000 farms obtained central station service during the present year prior to June 30th.

The connections made during the year are the largest on record and bring the electrified farms to 3,574,641, or 61.0 per cent, as compared with 3,182,133 or 54.3 per cent estimated June 30, 1946.

Farms without electric service the 1947 estimates show are located throughout the Nation, with nine states each having more than 100,000 farms unserved and 19 more than 50,000 unelectrified farms each.

While the estimate for 1947 is not strictly comparable with those of earlier years—largely because the 1945 farm census figures have been revised in the interval—an examination of the 1947 and 1946 estimates indicate that the largest gains in the number of farms connected were made generally in areas where the number of unserved farms was greatest. Texas, Alabama, Oklahoma, North Carolina, Kentucky, Georgia, Tennessee, Arkansas, Missouri, and Mississippi all registered large increases in the number of farms receiving service.

New Type Gas Storage Unit

Consolidated Steel Corporation has pioneered the development of a new type gas storage unit being introduced on the Pacific coast for the first time by the Southern Counties Gas Company, according to a recent announcement. These gas storage units of novel design, originally developed by Consolidated Steel and Southern Counties Gas, are being installed under ground by the gas company at San Luis Obispo and Paso Robles, California. They utilize the large diameter, 30-inch high-strength expanded steel pipe, which Consolidated Steel is manufacturing at its Maywood plant for oil and gas transmission lines.

Each of the storage units will be of ap-

proximately 250,000 cubic feet capacity, with a working pressure of 440 psi. The San Luis Obispo unit will consist of 7 tanks, 30 inches O.D. by 240 feet long, and the Paso Robles unit of 9 tanks, 30 inches O.D. by 180 feet long, all made from 60-foot sections of Consolidated's high-strength pipe welded together at the site. In both cases the tanks will be laid parallel under ground and manifolded together.

The expanded pipe is considered to be admirably suited to this service, because in the process of manufacture it is stretched circumferentially by internal hydraulic pressure, thus increasing the circumferential yield strength of the pipe and also proving the longitudinal welded seam to be as strong as the parent steel plate.

Due to the fact that the pipe is fabricated by production line methods and relatively little field work is required for its installation, considerable savings in cost is claimed for this type holder over the conventional holder.

New Appointments

American Coach & Body Company

Officials of The American Coach & Body Company, Cleveland, Ohio, announce the appointment of Leonard A. Stewart to the position of chief engineer. For the previous 8 years, Mr. Stewart was affiliated with Mack Trucks, Inc., in the capacity of body engineer of the truck division. Prior to that he was body engineer of Diamond T Motor Car Company of Chicago.

General Electric Company

Three staff appointments have been announced by J. W. Belanger, newly named manager of the turbine and gear divisions of General Electric's apparatus department.

The appointments are: C. S. Coggeshall, manager of sales; W. E. Saupe, manager, Schenectady turbine manufacturing division, and W. L. Young, manager, Lynn turbine and gear manufacturing division.

Proctor Electric Company

Former Brigadier General H. Joseph Lawes, recently retired from the U. S. Army, has accepted the newly-created post of special assistant to the president of the Proctor Electric Company, it was made known recently by Mr. Walter M. Schwartz, Jr., president of the company. In this capacity he will exercise an active interest in all phases of public relations and personnel management.

Communications Booklet Offered By Westinghouse

Of particular interest to central station and industrial salesmen and electronic sales engineers is a booklet announced by Westinghouse Electric Corporation, describing the type JY power line carrier communications equipment.

Complete with pictures, the 8-page booklet

(*Continued on page* 34)

(*Continued from page 30*)

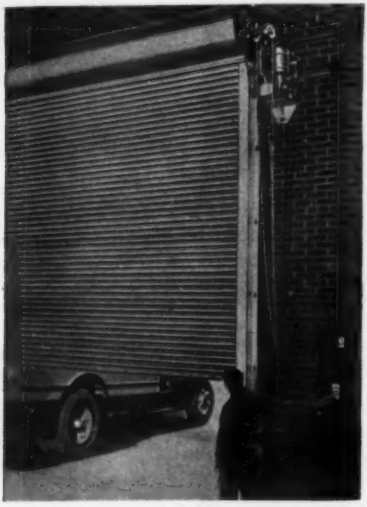
fully describes the two-frequency duplex, manual simplex, and automatic simplex transmitter-receiver assemblies, along with their component parts. Also explained are the code bell, voice, and selective methods of calling available in each class.

Copies of this booklet (B-3882) are available from the Westinghouse Electric Corporation, P. O. Box 868, Pittsburgh 30, Pennsylvania.

Kinnear Issues Bulletin on Motor Control Equipment

KINNEAR MANUFACTURING COMPANY (manufacturer of motor operated doors) has issued bulletin S-17 describing motor control equipment for use on rolling doors. This power equipment is so designed that existing manually operated Kinnear doors can be economically motorized at any time.

Several outstanding features of the Kinnear power units are covered. One, of prime importance, is the emergency manual operation



which permits quick and easy change from electrical to manual operation in case of an emergency.

Mounting details for bracket and wall mounted types are given. Illustrations of typical installations of Kinnear motor operated doors also are shown.

Copies of the bulletin S-17, as well as bulletins containing fuller details of the doors, may be obtained from the manufacturer, 7000 Fields avenue, Columbus, Ohio.

To Erect Compressor Station

CHEMICAL Plants Division of Blaw-Knox Company has received a contract from the United Natural Gas Company, Oil City, Pennsylvania, for the erection of a compressor station near Ellwood City. The new station will have seven compressors and will help assure a continuous flow of natural gas. Included in the award are the foundation, erection of compressor and auxiliary buildings, and installation of piping and equipment.

1,000,000th Bendix Washer Presented to EEI

THE 1,000,000th Bendix automatic washer, finished in 24-carat gold and rich silver, was presented formally to the Edison Electric Institute museum, October 30th, by Judson S. Sayre, president of Bendix Home Appliances, Inc., South Bend, Indiana. It was received by Fred Smith, director of the museum.

Construction Loans Announced

CONSTRUCTION loans — chiefly for distribution lines, system improvements or new or additional generating capacity—recently were made to the following enterprises by the Rural Electrification Administration:

Okefenoke Rural Electric Membership Corporation, Nahunta, Ga., $440,000.

Lyon-Lincoln Electric Coöperative, Tyler, Minn., $430,000.

Northwest Missouri Electric Coöperative, Savannah, Mo., $476,000.

Burt County Rural Public Power District, Tekamah, Neb., $220,000.

Adams Rural Electric Coöperative, West Union, Ohio, $320,000.

Pedernales Electric Coöperative, Johnson City, Tex., $215,000.

Houston County Electric Coöperative, Crockett, Tex., $220,000.

Stamford Electric Coöperative, Stamford, Tex., $100,000.

Black Warrier Electric Membership Corporation, Demopolis, Ala., $230,000.

Woodruff Electric Coöperative Corporation, Augusta, Ark., $437,000.

M. J. M. Electric Coöperative, Carlinville, Ill., $495,000.

Butte Electric Association, Newell, S. D., $180,000.

Community Electric Coöperative, Suffolk, Va., $275,000.

Central Electric Refrigeration Coöperative, Grove Hill, Ala., $12,000.

Jefferson Electric Coöperative, Brookville, Pa., $15,000.

Kootenai Rural Electrification Association, Coeur d'Alene, Idaho, $190,000.

Guthrie County Rural Electric Coöperative Association, Guthrie Center, Iowa, $245,000.

Coöperative Light and Power Association of Lake County, Two Harbors, Minn., $125,000.

Osage Valley Electric Coöperative Association, Butler, Mo., $620,000.

Northern Electric Coöperative, Opheim, Mont., $100,000.

Farmers Electric Coöperative, Clovis, N. M., $265,000.

Alfalfa Electric Coöperative, Cherokee, Okla., $530,000.

Tennessee Valley Electric Coöperative, Savannah, Tenn., $440,000.

PROFESSIONAL DIRECTORY

• This Directory is reserved for engineers, accountants, rate experts, consultants, and others equipped to serve utilities in all matters relating to rate questions, appraisals, valuations, special reports, investigations, design, and construction. » » »

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